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MASSACHUSETTS LABOR LEGISLATION

AN HISTORICAL AND CRITICAL STUDY

BY

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WITH

AN INTRODUCTION

BY

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INTRODUCTION.

Amid the many things which are valuable in the earlier reports of the Massachusetts Labor Bureau, none possess more permanent importance than the dispassionate analyses of the effects of labor laws which were prepared by Colonel Wright and his associates. The investigation of the workings of the ten-hour law in Massachusetts mills is a historic example of economic study which is as good as anything of its kind that has been done in the United States. But in more recent years the work of the Massachusetts Bureau has run in somewhat different channels. It has been to some degree crowded out of the fields of legislative investigation by the mass of purely statistical work which has been entrusted to its charge. And while the activity of its former chief is continued in his work as the head of the United States Bureau of Labor, the very breadth of the investigations which he is conducting forbids that complete treatment of any one field of legislation which was possible in his earlier labors.

Under these circumstances, the economic effects of Massachusetts labor legislation as they had worked themselves out in recent years seemed an appropriate subject for a thesis for the degree of Doctor of Philosophy at Yale. In her treatment of this theme Miss Whittelsey has presented the subject under three distinct aspects: an analysis, a history,

and a criticism. Her analysis shows what is the present condition of the Massachusetts statute books on the various subjects connected with labor. The history shows when these statues were passed, and what were the motives and causes which led to their passage. The criticism undertakes to show what have been the effects, economic, social and moral, of the various forms of statutory regulation.

In a field of this kind it is hardly to be expected that the results will be startling. If they were, the method and the impartiality of the thesis would be open to great distrust. It is for the serious student of legislation rather than for the doctrinaire or the agitator that a painstaking criticism of this kind is intended. It has special value at the present day, when so many other states are following the example of Massachusetts in this line, and when there is a tendency to introduce similar methods of regulation into other departments of economic life besides those which are involved in the contract between the employer and the wage earner. Whether this tendency is to be regarded as a good or an evil thing is a matter of opinion on which thoughtful men differ; but there can be no question among thoughtful men of all parties that the maximum of good and the minimum of evil are to be obtained by studying dispassionately the results of past experience before we make experiments in new fields.

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PREFACE.

In labor legislation Massachusetts leads American experiment and calls upon sister States to follow her example. Does her accomplishment warrant this? The question is of practical moment, and offers the student of economic theory an attractive field for scientific investigation. In how far has this legislation been in accordance with the teachings of economic theory? It is the object of the present work to state such facts in regard to the history and effects of these laws as could be disentangled from the network of party strife that envelops the subject; to review them critically, and, guarding against the inaccuracy of too sweeping generalization from limited data, to draw such conclusions as are warranted by the study presented.

The special thanks of the writer are due to the Hon. Carroll D. Wright for courtesies extended; to President Hadley, Mr. F. J. Stimson, of Boston, and the Rev. Newman Smyth, of New Haven, for their valuable assistance in advice and criticism; and to others for their kindness in aiding to secure material for the work.

CHAPTER I.

HISTORICAL SKETCH OF THE LABOR LAWS OF MASSACHUSETTS.

Child Labor—Hours of Labor—Safety and Sanitation—Inspection—The Employment Contract—Wage Payment—Arbitration.

Before 1830 there were no distinct labor laws in Massachusetts. The laws enacted from 1830 to 1867 were avowedly faulty, hastily constructed, and unenforcible as placed upon the statute books. They seem to have been intended rather to still the clamor of labor agitators—then forcing the claims of labor upon public attention—than as any serious effort to correct the evils in the labor situation. In reading them, one is painfully impressed by the too evident lack of any earnestness of purpose or care in their formulation. Lest, however, the rigor of these statements meets with objection, let us call in evidence the enactments themselves.

Early Child Labor Laws.

Child labor, here, as in England, was the first aspect of the labor question to receive attention; nor does it need argument to convince that the conditions which prevailed demanded reform.

In 1836 an act (c. 245) was passed concerning the employment and schooling of laboring children, which was successively amended in 1838 (c. 107); 1842 (c. 60); 1849 (c. 220); 1855 (c. 379), and 1858 (c. 83), and embodied in c. 42 of the General Statutes. This provided, in outline, as follows: [1] Three months of schooling shall be given to children under fifteen years of age in manufacturing establishments, the employer being under a penalty of $50.00 fine for violations (1836, c. 245). A sworn certificate of school attendance shall release him from this liability (1838, c. 107). Children under twelve years of age shall not be employed longer than ten hours a day. The School Committee shall prosecute violations of the child labor laws (1842, c. 60). In 1849 (c. 220) the annual schooling requirement, was eleven weeks, which was increased to eighteen in 1858 (c. 83). Also as the pre-requisite of employment the child must have passed the prescribed period in the schools "during the twelve months next preceding" the time of employment. Although this clause was stricken out by amendment (1855, c. 379) it appeared again in the General Statutes, which at the same time omitted the provision concerning certificates, a significant illustration of the careless fashion with which these laws were habitually treated. That such codification or omission from the codification made the slightest practical difference the reader is not to suppose, for in either case they were simply dead letters upon the statute books and stood at best for the ineffectual recognition of a social need, a cold statement of prevailing social sentiment.

Law of 1867.—Even at a time when more attention was given to these matters, we find laws almost as faulty as their less earnest predecessors. A measure was passed in 1866 concerning the employment of children, but was soon modified by lessened requirements in 1867 (c. 285). This latter act long stood as "the sole factory law of the common-

[1] Cf. Digest: Child Labor, Age and Education.

wealth," and is worthy of study as a sample of the "improved" legislation of that day. It provided, (1) that no child should be employed under the age of ten years; (2) that if employed between the ages of ten and fifteen years, the child should have had at least three months' schooling during the preceding year, if he had lived within the state during the preceding six months; (3) that no child under fifteen years should be employed longer than sixty hours in one week. The law applied to manufacturing and mechanical establishments, and was enforcible against "owner, agent, superintendent or overseer" who "knowingly employs or permits to be employed," and against "parent or guardian who allows or consents." A penalty of $50.00 was imposed for violation, and the constable of the commonwealth was required to detail *one* deputy to enforce the law. "The gathering of valuable information and preparation of statistics" was "the chief duty of this special deputy" according to the constable's next report.

This law thus gave no power, (1) to secure evidence; or (2) to enter where refused.

(3) It contained no provision for prosecution;

(4) It provided no means for determining age or school attendance;

(5) It specified by title parties liable, in such a way that, by proving himself only a "contractor," a guilty employer escaped penalty;[1]

(6) It left an open way of escape also through the word "knowingly";

(7) It detailed a force (one deputy) entirely insufficient to the task of inspection and enforcement. If proof, beyond the reading of such a law, were necessary to indicate its uselessness, it is not lacking in the reports of the new Bureau of Statistics of Labor (1870), where it is plainly called a "dead letter" (p. 197). There is much evidence from other sources to corroborate the statement. Evidence of the viola-

[1] Report of the Massachusetts Bureau of Statistics of Labor, 1870, pp. 137, 158.

tion of "all" provisions of the law was submitted in quantity to the legislature, but no case of successful prosecution was found. In 1873 the complaint went forth: "We permit by sheer and unpardonable neglect an educational compulsory law to go wholly unenforced, and we elevate to the position of law-makers some who are law-breakers of the very statute, now become a statute of words only, with its provisions neglected and its penalties disregarded."[1] Exceptions of conformity at Fall River, Salem, New Bedford and Springfield are noted with cheerfulness. No decisive action, however, was taken for some years.

Hours of Labor.

Meantime discussion of the situation was becoming more general. Labor leaders were vociferous and presented many bills, not only for reform in the administration of existing law, but for further restrictions. There was especially a strong agitation for curtailment of the hours of labor for women and minors. In answer to this constant importunity, commissions were appointed, in 1865 and 1866, to investigate the subject of hours of labor in relation to prevailing conditions among the working classes. These reported against a short-hour measure, and the only concession made to the demand for reform was the establishment of the Bureau of Statistics of Labor in 1869. The appointment of such a bureau had also been the recommendation of previous commissions.

Ten-hour Law of 1874.—Not until 1874 did the movement for shorter hours issue in the enactment of the ten-hour law (1874, c. 221). This limited the labor of women and minors (under eighteen years) to ten hours per day, except to make good time lost in a stoppage for repair within the same week, or when it was designed to give one short day's work. In no case were hours to exceed sixty per week. It applied to all manufacturing establishments, and willful

[1] Report of the Massachusetts Bureau of Statistics of Labor, 1873, p. 387.

employment—or acquiescence in the employment—of such women or minors, in violation of the statute, was punishable by fine ($50.00), upon prosecution within a year. Apparently experience had not taught its lesson yet. The law of 1874 was "practically not in operation until 1879, when the word 'willfully' was stricken by c. 207 of that year." [1]

Again, though effort was made to prosecute offences—especially in several cases at Fall River—corporation lawyers found numerous reasons why complaints, as drafted, should be quashed, and purely formal arguments were sustained by the courts in the face of the best evidence of violation. [2] Lawyers interpreted the law as satisfied by sixty hours per week, regardless of how hours per day were distributed, and this added greatly to the difficulty of collecting evidence. It was impossible for any inspector to watch any woman for the whole of a week, and unless her own testimony corroborated, and filled out the time between the hours at which he had seen her at work, the case was lost. Sometimes, however, convictions were given upon such testimony. [3] The fact is constantly brought out in the inspector's reports, that a large number of operatives habitually ignored the law, which was framed for their benefit and at their request. Many of them steadily refused to give information or testimony touching violations. Ways of evading requirements were numerous. The time devoted to starting and stopping machinery was absurdly prolonged. Again, where a factory ran an eleven-hour day, each woman and child was required to leave for half an hour in each half day, but her neighbor tended two sets of machinery during her absence—"doubling up," this was technically called.

[1] International Association of Factory Inspectors, Report of Convention, 1894, p. 65.

[2] The Statute of 1874 (c. 221), as amended by the Statute of 1880 (c. 194), applies only to persons who are "permanently therein (in the establishment) employed." Complaint against a manufacturing corporation for violation in employing a certain woman, without having posted a printed notice in a conspicuous place in the room in which she was employed stating the number of hours' work required of such persons on each day of the week—considered insufficient. Commonwealth *v.* Osborn Mill, 130 Mass. 33.

[3] Mass. Department of Police Report of 1894, Inspection, p. 65.

Amendments.—To meet these evident defects in the operation of the act, a series of amendments were passed. In 1879 (c. 207) the word "willfully" was stricken out. In 1880 (c. 194) the posting of notices, stating daily hours of work, etc., was required, but this met with still further difficulty. Forms were, therefore, given out later from the police department (1886, c. 90) which required the additional statement of time allowed to start and stop machinery and time given for meals. These notices were also ordered to be posted in conspicuous places in the workrooms.

The necessity of more definite form and placement of notices had been made evident. For example, an early notice had been found illegibly written—without break between the words—on a card four or five inches square, and placed *over* the doorway. This was a compliance with law apparently considered to be a good joke on the inspector by the witty employer. A few similar cases publicly advertised—names and all—in Boston newspapers did more than successful prosecution to enforce these measures, not in themselves burdensome. The clause which required notices to include the time given to start and stop the machinery, however, proved worse than useless as an aid to enforcement. It made nothing more definite, and really gave encouragement to the abuse it attempted to check. This very grave defect was speedily remedied by the amendment of 1887 (c. 280), which required the statement of "the hours of commencing and stopping *work,* hours when time for meals begins and ends, or if exempted (St. 1887, c. 215)[1] the time, if any, allowed for meals." In another clause also this act struck a telling blow at an evasion which had taxed the vigilance of the inspectors. The most trivial accident to machinery which, in itself might not have entailed appreciable loss of time had again and again been made the pretext for much lengthened overtime employment. This amendment, permitting overtime only when the stoppage lasted thirty

[1] See Digest: Hours of Labor, Meal Hours.

minutes or longer, and after a full, written report had been sent to the chief of police or inspector, brought the case to the attention of officers before violation was likely to be attempted, while the sinner who still evaded by rendering a false report had to face a more severe penalty if detected.

In 1883 (c. 157) the law had been extended, by amendment, to "mechanical and mercantile establishments," and hours of labor were again regulated in mercantile establishments by c. 275 of 1884, which also required posted notices and certificates showing the age of children employed.

In 1887 (cc. 215 and 330) meal hours for women and minors were carefully and, as it has proved, successfully regulated. The law of 1888 (c. 348) added a new restriction to prevent night work by children under fourteen years of age (from 7 p. m. to 6. a. m.), and an act of 1890 (c. 183) extended a similar measure to women and minors (10 p. m. to 6 a. m.).

Again in 1892 (c. 357) the hours of labor for women and minors in manufacturing and mechanical establishments were cut to fifty-eight per week, and the same reduction in hours has since been extended to those employed in mercantile establishments, with the reservation that the restriction shall not apply in retail shops during the month of December (1900, c. 378).

A recognized legal form of complaint, adopted in 1892 (c. 210), also greatly facilitated prosecution for offences and made the law "comparatively easy to enforce" and "generally obeyed." [1]

Having so far digressed into the subject of hours of labor, it may be well to insert here the few other acts which relate thereto.

State Nine-hour Day.—In 1890 (c. 375), a nine-hour day was enacted for employees of the Commonwealth, which was extended to counties, cities and towns in 1891 (c. 350), and

[1] International Association of Factory Inspectors, Report of Convention, 1894, p. 66.

in 1893 (c. 406), to all manual labor under contracts made by, or on behalf of, the Commonwealth. The later statute of 1899 (c. 344) curtailing hours to eight per day, is optional, being dependent upon acceptance by a majority of the qualified voters of the town or city.

Street-car Hours.—In 1893 (c. 386) a special restriction also reduced hours for street-car conductors, motormen and drivers to a daily service of ten within twelve consecutive hours, and required that extra time—allowed on extraordinary occasions, such as holidays, etc.—should receive extra compensation.

Later Child Labor Laws.

Age and Schooling.—To return to the legal requirements concerning age and schooling of children. In 1876 (c. 52) the worthless "law of '67" was put aside in favor of a new one of the same tenor. This substituted twenty weeks for the three months' schooling requirement for children under fourteen years of age, and called for a certificate of school attendance as evidence. Children under ten years were of course barred from labor, as before. The law was made to cover mercantile and mechanical establishments as well as manufactories, and truant officers were assigned the duty of visiting these establishments and of reporting violations.

In 1878 (c. 257) certificates of birth and age of youths under sixteen years were required to be kept on file with the school certificates of those under fourteen. No children of school age were allowed to be employed during periods of public school session, unless they could both read and write English, and had received twenty weeks' schooling "during the year next preceding employment." The ambiguity of the wording of these laws gave inspectors much trouble, for the "year" was variously interpreted to mean school year, calendar year, or last twelve months and, since no special form of school certificate was prescribed, the most

inadequate and useless statements were submitted in good faith. For example the following enlightening information was thus collected:

.....1879.

This certifies that ..... has complied with the law in regard to school attendance as I understand it.

.....

Chairman School Committee.

The person who signed this certificate evidently did not understand the law and probably meant to say so. Another certificate reads as follows:

.....1879.

This certifies that the following-named children have attended school the time required by law.

.....

Chairman School Committee.

Then follow the names of thirteen children employed in the mill, some of whom proved to be under ten years of age.

Another certificate says that "..... has been to school to me one year and a half and has been a good boy."

These certificates were not exceptional. Hundreds of similar ones were found on file all over the state.

Evasion of the law by parents was very common and difficult to provide against. One very successful way of obtaining the certificates desired was by persenting one child of the family—who was of age and description to pass the requirements—twice, at a sufficient interval, and so to take out two certificates under different names,—one to be given to the younger sister. [1]

The enforcement of the educational provisions was also most discouragingly hindered by the growing numbers of

[1] International Association of Factory Inspectors, Report of Convention, pp. 67, 68.

French-Canadians and other foreigners entering Massachusetts factories.[1] This, and the better statistical returns, probably account for an apparent increase of illiteracy among minors over fourteen years of age, which was noted in the early eighties.

Again, in connection with these school laws, we have continued efforts to strengthen weaknesses, and to build up guards against the constant and costly leakage. A form of certificate was ordered to be prescribed by the State Board of Education, and to be approved by the attorney-general (1880, c. 137). Employment of those under twelve years during the hours of public school session was forbidden (1883, c. 224). And, since much practical difficulty was experienced in enforcing this hour requirement, days were substituted for hours, and no such employment was permitted at all during days of public school session (1885, c. 222).

Again, by c. 433 of 1887, every person who "regularly" employed a minor, of one year's residence in the State, unable to read and write English, yet not a regular attendant at day or evening school, was held liable to fine; subsequently (1891, c. 317) the word "regularly," another of those loopholes left by the careless legislator, was stricken out. At the same time (1887, c. 433) provision was made for the issuance of special certificates by the School Committee—for fixed periods of time—in cases where the strict observance of law worked hardship. The Committee was also required to post in three public places, a two weeks' notice of the opening of each term of the evening school. The public and evening school requirement was again and more clearly defined in 1889 (c. 135). It was chiefly for the benefit of these illiterate working minors that the duty of maintaining evening schools was originally imposed by statute upon every city of 10,000 inhabitants.

Notwithstanding these improvements, inspectors still com-

[1] Massachusetts Department of Police, Report of 1882, Inspection, p. 20.

plained that, in spite of certificates duly signed and religiously kept on file, children often appeared undersized for the age given.[1] The law was no sufficient check upon false statements by parents, and truant officers gave the matter little attention.

Enactments, in 1888 (c. 348), raised the age limit to thirteen years; limited night work, as noted above; gave power to the chief of police, with approval of the governor, to forbid employment of children under fourteen years in unhealthy occupations; dictated a legal form of school certificate, and employment ticket, which must be presented before the certificate should be signed; prescribed means of verifying statements of parents concerning age, etc., by reference to school census or papers of birth and baptism; and punished false statements with fine or imprisonment.

Still there was trouble with certificates. Employers often retained them when dismissing children, some thus securing a goodly stock against a time of need, until it was expressly stated, as a law with a penalty, that such certificate was the property of the child to whom it had been granted, and must be returned upon discharge (1890, c. 299).

Abuse in granting special permits to work also called for another clause appending a requirement of evening school attendance during such special employment, unless a physician's certificate showed physical inability to both work and study (1890, c. 48).

Other child-labor laws further limit their employment in particular occupations.

Peddling and Begging.—In connection with the body of license laws, c. 50 of the General Statutes incorporated a provision which authorized the mayor and aldermen or selectmen to restrict or license sales by minors.[2] This measure, however, waited twenty-five years for the needed

[1] Massachusetts Department of Police, Report of 1887, Inspection, p. 63.
[2] See also Public Statutes, c. 68, sec. 2.

reinforcement of a law which should hold those controlling or using children to beg or peddle responsible and penalize violations; while it was not until 1892 (c. 331) that the fact of independent violation by minors was recognized and dealt with by the direct imposition of a fine upon the young offender.

The headlong haste of these enterprising young business men, who wished to be first to bring their goods to a promising market, so often resulted in dreadful accidents to children who attempted to board street-cars, that an act was at last passed forbidding street-railway corporations to allow children under ten years of age to enter their cars for the purpose of peddling papers or other articles (1889, c. 229).

In Circuses, Shows, etc.—In another field of at least equal importance statutory regulation was tardier. In 1874, 1877 and 1880 laws were passed prohibiting license to circuses, shows, etc., where parts were taken by children under fifteen years of age (1874, c. 279), and "belonging to the public schools," when "in the opinion" of the board of licensers, such occupation endangered their moral or physical health (1880, c. 88). Persons controlling these children were bound to an observance of the law under penalty of $200.00 fine, or six months' imprisonment (1877, c. 172).

Not to Operate Elevators.—In factories, or elsewhere, children under fourteen years of age must not clean dangerous machinery in motion or dangerously near to moving machinery (1887, c. 121). And again, the custody or operation of an elevator cannot be entrusted to minors under fifteen years (1890, c. 90).

We thus reach at last the codification of this body of laws in 1894 (c. 508), "an act regulating the employment of labor," which is substantially the law of to-day.

The Statute of 1898 (c. 494) is in the main a restatement of the provisions of c. 508, of 1894, except that it raised the age limit, debarring from employment in factory, workshop and mercantile establishments all children under fourteen

years of age, and imposed somewhat stricter conditions concerning certificates. So greatly had child labor already been reduced by the forerunners of this law, however, that Chief Wade estimates that its enforcement has displaced less than one hundred children. [1]

Safety and Sanitation.

Conditions of safety and sanitation, as affecting labor, were not so early forced upon the attention of legislators. To-day, however, their regulation constitutes one of the most important chapters in the labor legislation of the state.

It was again labor agitators who first demanded action in this field. In 1874 the Bureau of Statistics of Labor made an investigation of the general provisions concerning safety, ventilation, etc., found in Massachusetts factories and considered it an appropriate field for legislative interference, [2] while the reports of factory inspectors drew attention to the large number of accidents occurring, which might have been prevented by the proper protection of machinery.

The first enactment was in 1877 (c. 214). It required dangerous machinery—belting, gearing, etc.—to be guarded; allowed only engines to be cleaned while in motion; and exacted the provision of stairways, fire-escapes, apparatus for extinguishing fire, doors opening outwards, and passage-ways kept clear of obstructions as preparation for the possible contingency of fire.

Without entering into details of these laws—which can be more profitably studied directly from the summary and table given below [3]—their general course of growth may be indicated as follows:

The requirements became continually more explicit and

[1] Massachusetts Department of Police Inspection, 1899, Report of, p. 15.
[2] Report of the Mass. Bureau of Statistics of Labor, 1874, pp. 112-156.
[3] See Appendix "A."

stringent concerning the guarding of machinery, mode of egress, etc. Building certificates guaranteed more careful plans. Explosives obstructing ways and dangerous in case of fire were expressly dealt with in c. 137, Act of 1881. The too common habit of locking doors during the hours of labor was forbidden (1884, c. 52). Communication with the engine-room by bell or tube (1886, c. 173), or by appliance controlling the motive power (1890, c. 179), was exacted to provide against accident. Safety appliances were required for elevators, and where such were unsatisfactory to inspectors, the latter were ordered to post placards forbidding their use. Also, as already noted, children were forbidden to operate elevators (1890, c. 90).

The extension of these laws was urged, and aided in the accomplishment of practical results, by a continuous stream of common-sense criticism from all sides. Suggestions from inspectors especially, have not only brought out minor difficulties in the laws as passed, but have had some value in pointing out other dangers to be guarded against.

A recent development of life-protective regulations has been the provision of inspection for steam boilers and engines and the requirement that engineers and firemen who operate these shall be duly licensed. Statutes requiring license for the erection and use of furnaces, engines and boilers are, of course, of long standing in the Commonwealth, and the power to inspect these at will was also early bestowed upon the mayor and alderman or selectmen (1852, c. 191, and 1859, c. 259). Their growth was, however, very slow and their effectiveness limited. The statutes of 1895 (cc. 418 and 471) materially altered the situation. These transfer the responsibility of inspection from city officials to the state inspecting department, to which men specially fitted for the duties have been appointed; require the owners of an uninsured steam boiler to report its location and to hold an inspector's certificate testifying its condition to be satisfactory, and require the examination of engineers and of firemen be-

fore the license is issued to them, without which they may not operate any plant. [1]

Special laws concerning cleanliness, general sanitation and ventilation of factories and workshops were also enacted, for the better health of operatives, in 1887 and 1888 (c. 103 and c. 305). These, at first concerned only with manufacturing establishments, were later extended, in so far as they were applicable, to mercantile and other industries.

Tenement Workshops.—Especially important is the present movement to regulate conditions in workshops where clothing is made. In addition to the ordinary requirements of the general sanitary laws concerning tenements, the Acts of 1891 (c. 357) and 1892 (c. 296) were passed especially to choke a growth which threatened to develop into that dread disease, the sweating system. These laws defined the workshop as "any house, room or place used as a dwelling and also for the purpose of making, altering, repairing or finishing for sale any ready-made coats, vests, trousers or overcoats, except by the family dwelling there"; and required the proprietor of such a shop to notify the chief of police of its location, of the nature of the work done, and of the number of his employees, in order that such premises and the garments made there might be kept under strict surveillance. It is perhaps needless to say that this invitation to advertise their business was not accepted by some of the more retiring employers, and a time consuming game of hide and seek has varied the routine of inspection. The law insisted that tenement-made goods should be labeled, and punished by a heavy fine any person "knowingly" offering such for sale unlabeled or falsely labeled; it also attempted to guard against the shipment to Massachusetts of infected or unclean clothing. [2]

Subsequent amendments made definitions clearer and required workers to obtain licenses from the police department

[1] For exceptions see: Digest, Safety and Sanitation; Boilers.
[2] See Digest: Sanitation, Tenement Workshops.

before receiving employment. The Act of 1898 (c. 150), which is chiefly a restatement of those which went before, modified them very considerably in one point, that it *prohibited* work upon wearing apparel intended for sale "in any room or apartment in any tenement or dwelling," "*except* by the family dwelling there," while any family desiring to do this work must first procure a license, employers being forbidden to contract in any way with unlicensed workers. Exception was made in the case of a room or apartment "which is not used for living or sleeping purposes" nor connected with one so used and to which there is a separate outside entrance.

In the enforcement of these measures, the inspection department receives the co-operation and support of both state and local boards of health.

Inspection and Enforcement.

Concerning the enforcement of the factory laws, the varied and contradictory statements made in the reports of inspectors form an interesting, if not overprofitable, study. It may be taken for granted that the number of cases of violation are not there overstated.

Already, in our review of the statutes themselves, the chief points of difficulty have appeared somewhat in the amendments and extensions made. It must also be borne in mind that the enforcement of the earlier laws was much hindered by the insufficient number of police detailed to the work.

At first the unreliable mechanism of truant officers and local town or city officials was solely depended upon for inspection. Then, under new child-labor statutes, a single deputy was in each case detailed by the police department to aid enforcement (1866, c. 273; 1867, c. 285). The law of 1877 (c. 214), increasing the duties of factory inspection by regulations looking to the safety of employees, provided that members of the state detective department should act as inspectors of factories and public buildings, to report and

prosecute violations of this act as well as of other measures relative to the employment of women and minors. At the same time the power was bestowed which had long been sorely needed,—the right to enter and examine as their duties might require. It was however still claimed, with good reason, that it would take this force at least three years to visit Massachusetts' manufacturing and other establishments as required by law.[1] In 1879 (c. 305), the governor was authorized to appoint two regular inspectors from the police department.

Better administration was finally secured in 1888 (c. 113), by separating the detective and inspection forces—the inspectors then numbering ten. Since this date successive additions have raised their number to twenty-five. Their work is now apportioned by districts; and four inspectors, of whom two are women, are reserved for special duty as detailed. With the enactment of stringent steam-boiler inspection laws, a new department of boiler inspectors, now numbering ten, was created. Civil-service examinations became a requirement in the departments when Massachusetts government service in general fell under such regulation, so that the governor now makes his appointments from among those candidates who have successfully passed the prescribed examinations.

In early reports ignorance of the law, especially among local officials, was a common complaint. Cases, where restrictions upon child labor worked hardship, drew forth petitions for exceptions from city authorities and Boards of Charities.[2] At a time of business depression (1877) it was candidly admitted "I have made no effort to enforce this law (ten-hour law of 1874), contenting myself with notifying parties working over hours that they were liable under the law[3] There are scattered complaints of inattention, lax administration, "gross neglect," etc., on the part of truant of-

[1] Massachusetts Department of Police, Report of 1878, Inspection, p. 28.
[2] *Ibid.*, p. 29.
[3] *Ibid.*, 1877, p. 21.

ficers. In 1880 the chief rather ruefully remarks, "it would afford me great pleasure if I could truthfully state that I found the laws relative to the employment of children in manufacturing establishments generally complied with." Yet the very next year, in another connection, such general compliance is broadly stated as already a fact (1881, p. 7). There seems to have been considerable difference in this matter between districts, compliance being more general where manufacturing interests were larger, richer and less pressed by competitors.

Notwithstanding discrepancies, such as the instance just noted, the reports, studied in succession, with special reference to the decrease in non-conformity, give sufficient evidence of progress.

Whereas in 1880 it was still "a common thing to find children under ten years at work in mills," within the decade such labor was reduced to comparatively few cases of violation, which grow steadily less. Even as regards school certificates there is general compliance to-day, and only scattering complaint. Some foreman has put children to work on promise of certificates not then presented; he also employs without certificates in vacations; some children still pass under false ages; a few illiterate minors have been found. [1]

That there is a growing appreciation of the importance of the educational requirements is certainly indisputable, and it is Chief Wade's testimony that "no provision of the law in relation to children is more faithfully observed by employers than those requiring school attendance, and certificates to establish the fact." [2] Personal investigation in numerous factories, mills and shops has convinced the writer of the substantial accuracy of this characterization.

Enforcement of the short-hour laws met with much more open and decided opposition. Men who would have felt it

[1] Massachusetts Department of Police, Report of 1897, Inspection, p. 198.
[2] *Ibid.*, 1899, p. 9.

a shame to humanity and citizenship openly to oppose their penny's gain to just health and schooling requirements for children, here planted themselves firmly on grounds of economic necessity. The strongest possible interests ranged themselves against the ten-hour law.

Passed in 1874, the clause making willful violation alone punishable, vitiated its usefulness and left it little more than a threat, until the clause was stricken out, as already noted, in 1879. Then followed years of struggle in the courts and of greater struggle in the factories to obtain evidence from fearful or unwilling employees. Once in possession of such data, however, the amended law insured success to prosecution. Indeed it became only necessary to convince the employer that any evidence for prosecution was in hand to persuade him to compliance without process of law. We may concur with the statement of the chief constable, made in 1883: "It is certainly creditable to the managers of these vast industrial interests, that they have so generally complied with the statute [1] which has no parallel in the legislation of adjacent states." [2]

There is abundant evidence that the sixty-hour law had become a custom, hardly needing the inspector's supervision, well before the enactment of the fifty-eight-hour law. In itself, the very passage of that measure argues that the sixty-hour limit was no longer seriously opposed. Concerning this reduction also the report of 1897 affirmed that very few factories were working women and minors the full time allowed by law and that many notices called for "from two to four hours less." [3] This may have been due in part, of course, to the business depression.

Measures for safety and sanitation in factories and elsewhere met, from the first, with readiest acceptance. Early inspection on these lines found an appalling neglect of precaution, and there was a good deal of grumbling at the

[1] Ten-hour law, Public Statutes, c. 74, §§ 4–5.
[2] Massachusetts Department of Police, Report of 1883, Inspection, p. 16.
[3] *Ibid.*, 1897, p. 89.

requirements of old-maidish inspectors, who were often called upon to show much ingenuity to prove to skeptical proprietors that their "impossible orders" could be carried out. Such difficulties are, of course, still to be found in cases of old buildings, but compliance, so far as practicable, is general. The steady decrease of accidents from unguarded machinery is strong proof of this. All inspectors report factories to be in predominantly "good" sanitary condition. It is claimed that Massachusetts legislation and inspection in this regard are superior to England.

The most difficult task undertaken on these lines, and one hardly old enough yet to be justly criticised as ill-enforced, is the regulation of the tenement workshop. It was a tribute to the vigilance of inspectors that the special investigations made in 1898, by the Boston branch of the Consumer's League, resulted in convincing that body that the laws there were pretty well enforced, and that conditions compared especially favorably with those in New York.

It is curious to note the attitude of employers towards these labor laws. Invariably offering persistent opposition to the enactment of each new measure, even to the first safety requirements; they, nevertheless, fall one after another into line and obedience. Inspectors constantly attest their "cheerful spirit of compliance," and their general courteous treatment, even before the law gave inspectors explicit power to enter, investigate, etc.

The Employment Contract.

We have noted, in connection with the passage of the above measures, the presence of an organized body of labor strong enough to make its opinion respected by legislators. The Labor Union was indeed the antecedent cause of much of the labor legislation of the state.

As labor began to assume pretensions to organization, various unions sought to gain legal status through the special charters then granted at the option of the government. This

cumbrous method finally gave place in 1888 (c. 134) to a general law allowing the labor union to acquire the rights of an incorporated body.

During the whole course of this development, from the early, struggling, unrecognized gatherings of workmen to this later-day trade union, the interest and endeavor of labor organizations have been to win for labor recognition and protection under the employment contract. Not to education, nor to regulated hours, nor even to provisions for safety and sanitation has the adult male laborer put forth any claim, but solely to his rights under the labor contract. For these he has fought again and again.

To protect the individual, the law of 1875 (c. 211) forbade trade unionists to seek to prevent the employment of those not of their number; as did c. 330 of the Acts of 1892 the intimidation of workers by employers who desired to prevent them from joining labor organizations. The worker's entire freedom in voting was also early guarded (1849, c. 321); and time to vote assured to him (1887, c. 272).

The question which to-day stirs most discussion is the extent of the right of an employee to exact damages for bodily injuries sustained in service, or of the employer's liability.

The right of an employee to recover such compensation rested until 1887 solely upon the provision of the Common Law that a master is liable to his servant "only for his own negligence, and may relieve himself from liability by stipulating in an employment contract that he is not chargeable for injuries resulting from defects of machinery, etc., or by giving express notice of risks. He cannot, however, so excuse his own culpable negligence."[1] There is a penalty upon total disregard of the safety of workers.

In very many cases special contracts, exempting the employer from liability, were successfully used, until they were declared void by an Act of 1877 (c. 101). Cases of similar

[1] W. I. Taylor, Employer's Liability, pp. 27-28.

contracts, however, appear much later than this date, especially in out-of-the-way districts, where the ignorance of all parties effectually protected the employer.

In 1882 the Bureau of Labor was directed to investigate the question of employers' liability, and to report as to the necessity of legislation upon that subject in Massachusetts. The report made was substantially in favor of the enactment of measures similar to those of English laws. No action, however, was taken.

In 1886 (c. 260) a report of accidents occurring in factories or manufacturing establishments, and causing death or four days' detention from work, was required to be sent to the district police. Later (1890, c. 83) the regulation was extended to mercantile establishments and the chief of police was required to return written acknowledgment of the receipt of such report to the sender (1894, c. 481). The records annually published have since 1886 told a tale of grewsome interest. They expose an astonishing carelessness to danger on the part of workers, but they also teach in a most practically forcible way where the chief dangers to be guarded against lie. It is reassuring to note that successive reports show a considerable decrease in the number of cases where due protection might have prevented injury.

It can hardly be said that the long-striven-for statute defining the employer's liability for injury to his employee was, in the form in which it issued forth in 1887 (c. 270), altogether satisfactory to its originators. It provided that if an employee himself "exercising due care and diligence," be injured (1) through machinery defective on account of negligence of the employer, or his agent appointed to keep it in repair, while the employee was either ignorant of the defect or had given warning concerning it; (2) through negligence of the superintendent; or (3) through the negligence of one "in charge or control of any signal, switch, locomotive engine or train upon a railroad," the employee or his legal representative "shall have the same right of compensation and

remedies against the employer as if he had not been an employee."

In case of instantaneous death, the next of kin, "if dependent upon the wages of the deceased," may maintain an action for damages, as though the deceased had consciously suffered and not died instantaneously. The maximum damages allowed are $4,000, or in case of death, which includes injury, $500 to $5,000, according to the culpability of the employer, and also with regard to the proportion which his contributions may bear to the whole of an employee's benefit fund. An amendment in 1888 (c. 155) also requires notice to be given to the employer signed by, or on behalf of, the injured man, such notice to be served, in case of death, by the administrator.

Wages.

Another most important item in the balance sheet of the employment contract is the rate of wages. On the side of wage protection there at once rises to mind the great mass of special wage lien laws, and exemptions of wages from attachments, taxes, etc. Such laws, in varying form, are of old standing and well-nigh universal; they serve simply to guarantee to the laborer wages rightfully earned, and do not claim our attention in the present study.

Laws of more importance for the economist to investigate are those which stipulate the period of payments, regulate fines, conditions of forfeiture, etc.

Among the earliest of these laws was one enacted in 1875 (c. 211), which provided that in any manufacturing establishment where the laborer was required to give notice before leaving under penalty of forfeiting any part of his wages earned, a similar penalty should be enforcible against the employer discharging without notice, except for incapacity or misconduct, or in case of a general suspension of labor, an exception which was stricken out in 1895 (c. 129).

It is stated that the demand for weekly payment originated about 1875 among the Fall River Unions, where the concession was refused by employers. These Unions did not rest until they had carried their object to fulfillment through the acts which now impose such payment upon all corporations and certain specified occupations.

The first law, that of 1879 (c. 138), applied only to city laborers. It was extended in 1886 (c. 87) to certain corporations, amendment after amendment steadily widening its scope until it became applicable to cities, municipal corporations, and incorporated counties, and, with limitations, to "any person or corporation in any manufacturing business," to "contractors," to those engaged "in any of the building trades, in quarries or mines, in public works, in construction or repair of railroads, street railways, roads, bridges, sewers, gas, water or electric-light works, and in laying pipes or lines." [1] To-day, therefore, this regulation affects a majority of the employees in the state.

Complaint of violation may be brought by the chief of district police or the inspector, and the only allowed defence is absence of, or claim against the employee; actual tender refused; and attachment or valid assignment of wages. But no assignment of wages, either directly or indirectly, to the corporation is valid (1887, c. 399), and payment of wages after complaint is brought is no defence (1891, c. 239). Finally, another addition to this series of amendments (1896, c. 241) forbids special contract as a means of exempting employers from the obligation of weekly payments.

Turning, with some curiosity, to the much debated regulation of fines, we see that Massachusetts statutes concern themselves only with such as are levied upon weavers for imperfect work. Fines, not to exceed actual damage, at first allowed in accordance with printed and posted lists, in cases of "willfulness, incapacity or negligence," and when discovered and shown to the weaver on the first examination

[1] See: Digest, Wage Payment.

of the goods (1887, c. 361), were, in 1891 (c. 125), entirely forbidden.

This overradical provision was pronounced by the court to be unconstitutional [1] and was consequently revoked the next year (1892, c. 410), when an act was substituted against the "grading" of weavers' wages, except for imperfections pointed out to the weaver, and by amounts agreed to by both parties.

Chapter 534 of the Acts of 1894 also added a regulation, in accord with these, that a printed ticket specifying work required, wages paid, etc., be given with each warp to weavers paid by the piece, cut or yard, and to frame-tenders, warpers and operatives paid by the pound. The occupier or manager of every textile factory was required also to post notices in every job workroom specifying in detail the character of each kind of work and the rates of compensation (1894, c. 144). With this data, workers could compute for themselves more accurately the wages due on their day's work.

Another law, which appears to have been passed in the interests of justice, enjoins deductions from the wages of women and minors or overtime work unremunerated at the regular rates, when such employees have been detained against their wills in the workrooms during a stoppage of machinery (1898, c. 505).

Arbitration.

Such questions as the rights of labor in employment, and as the amount of a just and fair wage, have been the cause of almost innumerable strikes and labor controversies. They suspend industrial processes and injure the laborer, the employer and the community, so that the adjustment of these disputes has become one of the most serious problems which confronts the state. Massachusetts has attempted to meet the situation by the establishment of boards of arbitration.

Before 1886 there was a system of local boards open to

[1] Commonwealth *v.* Perry, 155 Mass. 117.

the voluntary recourse of disputants. In 1886 (c. 263) a permanent State Board of three persons, appointees of the governor, was installed as a sort of court of appeal from decisions of the local boards. The local boards had had but little to do, but this court of appeal had even less. It therefore began to tender its services and in 1887 the legal right and duty of initiative was given, together with the ordinary court powers to subpœna witnesses, require papers, etc. The Board claims to have had little practical need to use these powers, for the necessary information has always been willingly brought. Acceptance of the intervention of the Board is, of course, still voluntary. "As a matter of fact, their work, even quantitatively considered, is entirely respectable."[1]

[1] **Cummings, Indust. Arbitration, Qt. Jour. Econ., July, 1895, p. 359.**

CHAPTER II.

ECONOMIC EFFECTS.

Effect upon Production—Effect upon Investment—Effect upon Wages—Effect upon Employment—Summary.

From this brief review of the laws enacted and the method of their enforcement, we turn now to a study of their economic effects. Here we encounter a bewildering number of absolutely contradictory statements, from which it is no easy task to disentangle a few facts.

Tax on Production.

Given this series of laws acting upon manufacturing interests, the first question before the economist is: Have they been a tax upon the productive power of Massachusetts?

The laws, as we have seen, deal with (1) Child Labor, (2) Hours of Labor for Women and Minors, (3) Sanitation and Safety, (4) The Employment Contract and the Employer's Liability for Injury to Employees, and (5) Wage Payments. Of these, we may disregard the expenses imposed by safety and sanitary requirements; for employers themselves recognize such as incumbent upon them, law or no law; while for many years now no complaints of injustice or caprice in the orders of inspectors have been made. It would also be idle calculation from the practical point of view to attempt to

place a money value upon the results of restrictions upon child labor, which, nevertheless, tend to narrow the supply of cheap workers. But the statutes concerning the employer's liability for injury sustained by an employee, the requirement of weekly wage payment, and, above all, the shortened hours of labor, have been loudly denounced as burdensome taxation and deserve careful consideration.

The first two regulations are of minor importance. Under the statute which extends and defines somewhat more broadly the common law principle of employer's liability, it has become very generally the custom to take out a new form of special accident insurance to cover the risk which these more definite obligations impose. This has, therefore, raised the manufacturers' fixed charges by an inconsiderable percentage. The law leaves decisions of fact largely to the jury, and while employers acknowledge the enactment to be commendable, they have had some reason for complaint on account of verdicts rendered more upon grounds of mercy toward the unfortunate than of justice to the responsible.

As regards the regulation of the method of paying wages, weekly payments have so increased the office work in many establishments that additional clerks have been required to perform it, and the old method of receipt taking has been abandoned as too time-consuming. There is advanced also the claim that business concerns are obliged to give long credits themselves on orders received, which make such weekly cash payments, on their part, decidedly inconvenient, if not actually burdensome.

These expenses appear, however, of but slight consideration when compared with the ever-resisted mandate of shortened hours of labor. The whole battle of the labor movement centres in this issue. On one side stands the claim that the increased efficiency, both in labor and management, the higher speed of machinery, etc., which are forced upon producers, fully compensate—and more than

compensate—for the loss of time. To this is opposed the charge that such legislation has already so taxed—without corresponding compensation—Massachusetts' manufacturers that they cannot compete with like industries in other places. Curtailment of hours tends to make fixed charges assume undue proportion; it effectually reduces the volume of machine output.

The facts adducible in support of these conflicting views may be briefly reviewed. The short-hour movement, as we saw, had been long gathering strength before it received legislative recognition in the ten-hour law of 1874. So determined had been the efforts of Fall River unions to secure the concession, that many of the mills there, rather than risk warfare at a profitable season, did institute a ten-hour system in 1867, which lived for some twenty-one months. These experiments furnished a few statistics bearing on the issue, which may be summarized as follows:

American Linen Company.

1868, 6 wks. 10 hrs. average product, 32.23 yds. a loom *per diem*.
1869, " " 11 " " " 37.14 " " "
Loss due to shorter day 10+ per cent.

Granite Mills.

1867, 10 hrs. product, 3,861 pieces a week.
1869, 11 " " 4,350 " "
1870, 11 " " 4,356 " "
Loss due to shorter day 10+ per cent.

Union Mills.

1867 (304¼ days) 10 hrs. product, average 36,210 yds. *per diem*.
1869 (208½ ") 11 " " " 39,984 " "
Loss due to shorter day 10+ per cent.

Merchants' Manufacturing Company.

5 wks. 10 hrs., 593 hands produced 1,125,000 yds., earned $20,294.
5 " 11 " 486 " " 1,495,351 " " 21,441.90
11 hrs. running at reduced prices.
Loss due to shorter day 10+ per cent.

Atlantic Mills, Lawrence.

First account.

10 hours since 1867, increased speed, 5 per cent.
Strict time regulations enforced.
New machinery from time to time.
First two years, product diminished 5 per cent.
1871, stock at a low figure.
Dividend small.[1]

Second account.

10 hour system since 1867. Increased speed "a little."
"At first" lost 5 per cent.
After 1½ years, product "equal to what it had been under 11-hour system."
1871, product as great as under 12-hour system.
Same help, *machinery* and class of goods.

Mr. Dickinson shows no mill conducted on the eleven-hour system in the same class of goods doing any better than the "Atlantic Mills."[2]

In the matter of figures employers have the bookkeeper's advantage. The cases here cited do not at all exhaust the list which employers bring forward, whereas I have only been able to find one or two such examples given upon the other side. Nor have I seen these figures anywhere seriously questioned. It is noticeable, however, that the eleven-hour years chosen for comparison were not those which preceded, but in each case those which followed upon the ten-hour experiment. Such selection might suggest advantages in the later years of such improved machinery or methods as experience had shown to be useful. The margin of difference between the amounts allows some scope for reductions on this score, without very materially altering their bearing upon the point at issue. The action of the mill-owners was consistent with the figures when, after this experiment had been continued for twenty-two months, they

[1] Dickinson, M. F. J.—Argument *v.* Ten Hour Bill, 1871. Hearing before Legislative Labor Committee, p. 17 (Pamphlet).

[2] Cowley, C.—Argument for Petitioners, Ten Hour Bill, 1871. Hearing before Legislative Labor Committee, p. 5 (Pamphlet).

returned to the old hours. The evidence given prevailed to stave off legislative action for several years.

After the passage of the ten-hour law in 1874, we have again a period which ought to furnish some interesting comparative statistics. The difficulties of enforcement during the first part of this period have already been noted. Yet although inoperative over the state as a whole, inspectors had some opportunities to note the effects in cases of compliance. In his report for 1878, the Chief inserts an extract from the letter of a Massachusetts mill-owner as an example of the results which his department had observed.

"From the means of comparison we have (mills in Massachusetts and Connecticut with equal quality of machinery and the same grade of goods), we find the production of mills per set to be as the hours of labor; that is, a set of machinery running ten hours per day will not turn out more than ten-elevenths as many yards of the same grade of goods as one running eleven hours—but rather a small fraction less. . . . There is in Connecticut over Massachusetts a saving of $2,157 per annum, or more than 9 per cent on expenses common to both mills. . . . . In mills where longer hours reign there will be a small margin of profit when those of Massachusetts have none or are losing money."

The report goes on to say that a tour in Rhode Island and Connecticut showed manufacturers in these states to be using the most improved machinery and methods eleven hours daily with no apparent injury to the health of the operatives, being happy in their advantage over some Massachusetts competitors. The Chief in his report declares himself fearful of the consequences of the law if thoroughly enforced.

Examining a report a few years later, when efforts to enforce this measure were meeting with decidedly better success, we read: "Results have shown the wisdom of such legislation." [1] And again: "A mass of *facts* had been col-

[1] Massachusetts Police Report, Inspection, 1882, p. 15.

lected in this and other countries tending to show that no ultimate decrease of production or of profits thereon would follow if the number of hours were lessened; lapse of time has only strengthened these convictions." [1] A case is here also given of an unnamed manufacturer who reduced his time from sixty-six to sixty hours per week and "at the end of six months found his product increased nearly 10 per cent, and the quality of the work done more perfect."

In 1883, the Bureau of Statistics of Labor made a careful study of Profits and Earnings in Massachusetts, and drew a comparison between the years 1875 and 1880 on these lines. [2] The study concludes:

"Examination of the tables shows falling off in the percentage of gross profits in 1880 as compared with 1875. In this state this fall is 7.17 per cent; in Boston, 14.89 per cent; in the state, excluding Boston, 4.91 per cent. In the state in 1880 percentage of stock used had advanced 11.52 per cent; wages had been cut down 4.35 per cent; expenses had increased 02 per cent; and net profits had fallen off 7.19 per cent. In other words stock used cost 11.52 per cent more in 1880 than in 1875. To counterbalance this, wages were cut down 4.35 per cent and manufacturers lost 7.19 per cent, or 11.54 per cent. If we deduct increase in expenses, .02 per cent, we secure 11.52 per cent as net loss to employers and employees.

"Boston stock cost 18.29 per cent more in 1880 than in 1875; of this the employees bore 3.40 per cent, the employers 14.53 per cent, while 36 per cent was gained on expenses." [3]

We must not, of course, make the error of attributing this to short-hour legislation as a chief cause; nor in any event must too great weight be placed upon the testimony of such averages; nevertheless the figures are of interest, as they corroborate other authority.

[1] Massachusetts Police Report, Inspection, 1887, p. 18.

[2] Although passed in 1874, the ten hour law was not well in operation until after 1879.

[3] Report of Massachusetts Bureau of Labor Statistics, 1883, p. 372. Profits and Earnings.

Continuing the search after evidence, we may add here a few later statements of comparative costs. These are taken after the reduction of hours in 1892 (c. 357) to fifty-eight weekly.

"A Rhode Island mill of two thousand looms can produce twenty thousand yards per week more of printed cloth than one in Massachusetts, as the difference between fifty-eight and sixty hours per week." [1]

The Everett Mills have plants both in Massachusetts and Maine. Alike in equipment and grade of product and under identical management, the returns made were as follows:

In Maine, working eleven and a half hours per day, the mills earned a dividend at a time when the Massachusetts branch, working ten hours, was compelled to reorganize. Repeated comparisons all show that longer hours result in proportionally larger earnings. [2]

The Tremont and Suffolk Mills are in very close competition with the Nashua Mills of New Hampshire, and it was affirmed that the increased product of sixty hours per week (over fifty-eight) would mean to the former $50,000 per annum. [3]

"Dividends of the Lowell Manufacturing Company for fifteen years, from 1881 to 1895, have averaged a trifle under 4 per cent. Money could not have been hired at that rate during the period." [4]

Southern mills opened by Northern capital, in several cases as "dependencies" of Massachusetts corporations, earned dividends upon their capital stock during 1897, while the Northern ones failed to do so. [5]

The cotton mills are the chief, but not the only complainers. The fifty-eight-hour requirement bears heavily

[1] Quoted from the Boston Commercial Bulletin, in Bulletin of Wool Manufacturing, September, 1895, p. 264, note.

[2] *Ibid.*, p. 266.

[3] A. S. Covel before Legislative Labor Committee, 1898.

[4] A. T. Lyman before Legislative Labor Committee, 1898.

[5] See testimony of Mr. Lovering and of Mr. A. T. Lyman before Legislative Labor Committee, 1898.

upon smaller, spasmodic trades, such, for example, as confectionery, straw-plaiting, millinery, etc. Dealers claim that at holiday seasons and at other times of temporarily increased demand, they lose good business orders through inability to fill them in the short hours allowed by law, or to get new help for night-work. The clause which restricts the making up of time lost to loss within "the same week" (not within seven days) brings pressure and annoyance upon such businesses as laundry-work, where orders tend to crowd during the first of the week.

I have been unable to find any figures in Massachusetts which oppose to these contrary results. The two cases generally cited are the Atlantic Mills already referred to, and the Harris Mills, a voluntary experiment in the ten-hour system, at Woonsocket, Rhode Island. The Harris Mills manufactured a high grade of cloth goods which met almost no competition.

The argument in rebuttal, without means of statistical proof, throws doubt on the statements given above. Reference is made to the cases of voluntary reduction to eleven hours (1853) at Lowell, Lawrence and Fall River. There, during the eight years which elapsed before the *régime* became general, no attendant abstraction of capital appeared, but there was a constant growth. [1]

Statement is also made that during the twenty-one months of experiment at Fall River, "that city outstripped all competitors." Again, when an attempt was made, in 1879, to repeal the ten-hour law enacted the previous year, action did not proceed from Fall River, "nor Lowell, nor Lawrence, nor Holyoke, nor Chicopee, nor New Bedford, but from West Boylston, Sutton, Suncook, and Edward Atkinson," not from the great centres of industry, but from comparatively unimportant quarters and instigated by "an agitator." [2]

[1] McNeill, G. E., before Labor Committee on repeal of Ten Hour Bill, 1879. p. 4 (Pamphlet).
[2] *Ibid.*, p. 16.

The chief criticism upon these claims is that they apply to the cotton industry at a time when it easily held a monopoly, and when a tax no more considerable than that imposed by this shortening of hours would hardly be sufficient to injure its growth. Yet even the reduction to eleven hours had been considered by employers more as a concession to labor agitation than as an economic measure. Concerning the Fall River experiment, statements to be balanced against this claim have been given above.

The Manchester Experiment. The most weighty arguments in support of the economic advantages of this law are not based upon any American experience, but upon cases presented by certain English manufactories,—notably the various branches of the engineering and machine-making trades. The Salford Iron Works, at Manchester, expressly undertook to prove, or disprove, for the experiment was quite dispassionately entered upon, the practical possibility of the eight-hour *régime* in that occupation. The experiment was in every way carried forward in a truly scientific manner. The period was one year, from March 1, 1893, to February 28, 1894, results being referred to "the averages per year of the six preceding years" when the works had been running fifty-four and fifty-three hours per week. "Every element which might render doubtful its general application as test for the whole engineering and machine-making trade was eliminated." Wages remained at the same rates; the character of the work was as during preceding years; competition was close in both home and foreign markets; there was general trade depression. Statistical results may be summed up as follows:

There was actually a larger output in the trial year, but owing to prices the turnover did not increase with the amount of production. The ratio of wages to turnover in the trial year, as compared with that of the standard years, showed increase of .4 per cent, but at the same prices the wages cost "would have shown a decided decrease." Balancing economies against fixed charges the result was "un-

mistakably in favor of the trial year,—.4 per cent on the net amount of the year's turnover." "The proportion of 'time lost without leave' to the total time worked averaged in the fifty-three-hour period 2.46 per cent, whereas in the forty-eight-hour period it was only 0.46 per cent." This saving had a very important effect upon the general result. "Although there was falling off in the percentage earned by piece-workers over and above what they would have received as day wages, it was slight in comparison with the reduction in time, and particularly so in the latter portion of the year." Such result was, in fact, due to a reduction of rates in some work, but if the original rates had been maintained the difference between the two periods would have been 0.5 per cent instead of 1.41 per cent, a fluctuation which is not at all unusual between any two years. Upon the other hand, the output of day workers must have been considerably increased since the total product was greater in the trial year than before. Comparative percentages may be tabulated as follows:

	In Favor of Forty-eight Hours. Per Cent.	Against Hours. Per Cent.
Comparison of wages to turnover, made simply on the net value of production and the wages thereupon		0.4
Balance of account for "wear and tear," fuel, etc, as against increased cost per hour worked, for fixed charges, which must be credited to wages account	0.4	
Proportion of lost time to total time	2.0	
Difference in the amount of piece-work production as shown by piece-work balances, in three periods of the year:		
1st Period		1.76
2d "		1.58
3d "		0.78
Difference of piece-workers' earnings after equalizing prices for fair comparison with preceding years, for the whole trial year		0.5
(Diminution of piece-work made up by better day work.)		

[1] Mather, W. (M. P.). The Forty-eight Hours Week; A Year's Experiments and its Results, pp. 17–19.

Mr. Mather adds one important condition as "necessary to the success of the system;" there must be "total abolition of overtime." The double shift must be used when there is need of hastened work (p. 25). The experiment, he also said, received the hearty co-operation of employees, and there was strict observance of time orders.

The Salford Iron Works continued the forty-eight-hour week as their permanent system, and it is to-day not uncommon in English engineering trades, outside of London. It was certainly a tribute to the value of the Manchester experiment that, after formal conference with Mr. Mather, the government construction departments at the Wollwich Arsenal Works and the Dockyards adopted these hours. On the other hand, the bitterly fought and unsuccessful struggle of London engineers in 1897-98 for the same privilege, throws doubt upon too hasty generalization. London masters are apparently not yet convinced of the economic advantage to their business of such hours although they were given every opportunity to study the argument of practice as well as theory. Possibly the necessity of greater care and punctuality deters their wider adoption.

A few other special cases of the voluntary short-hour system present themselves, but none in general lines of manufacture, so that it seems most unsafe to draw the deduction that the same economic results would follow in occupations essentially unlike. [1]

Even in England complaint of hardship under the pressure of the code of labor laws has been loud enough to call for investigation by a Royal Commission. The Commission there, as our Labor Committee here, judged that there was no sufficient evidence for the repeal of the laws.

To sum up the case in regard to the influence of labor laws on the expenses of production:

Fixed charges have been increased by a small percentage

[1] *e. g.* The Jena Glass Works, Germany, in other ways also a unique industrial organization; our own building trades, etc., etc.

to cover the higher insurance requirement and the enforced weekly wage payments. Cotton-mill figures show each reduction in hours to have been followed by a reduction in output of from 5 per cent to 10 per cent; while comparison with mills of like equipment in other states confirms the advantage of longer hours. The statistical report of the Massachusetts Bureau of Labor (1883), which gives a comparison of profits and earnings in 1875-1880 fully supports these statements.

The labor argument does not oppose contrary figures, but points to the continuous growth of the industry and notes that the largest and oldest mills make little complaint. Even in the scientific experiment in the forty-eight-hour week made by the Manchester Iron Works (England) in 1893-94, percentages do not show a very favorable margin. The later unsuccessful struggle of London engineers to secure this forty-eight-hour privilege (1897-98) suggests that London masters held that longer hours were economically desirable.

From the facts thus far presented we must conclude, therefore, that the weight of evidence goes to show that this labor legislation is a tax upon production.

Contrary Tendencies.—How far do other effects of these laws tend to offset this burden? Two results are generally admitted:

1. Restrictive labor laws stimulate to greater speed and to other improvements in machinery and management.

2. They increase the efficiency of labor.

Every reduction of hours thus far has been followed immediately by the speeding up of machinery; by imposing stricter time regulations; by introducing special discipline in "gang work," so that time may not be lost to a whole shift through the fault of a single member, etc.; eventually, by the replacement of old machines by new ones of greater capacity, and requiring, usually, fewer operatives to tend them; and also by such further changes in management or methods

as can be devised to accomplish saving. This is the unanimous testimony of employers, laborers and inspectors.

By these means the old volume of production has been regained. Statistics of manufacture show production to be advancing in Massachusetts, as elsewhere, in spite of the odds against it. The disturbing thought to Massachusetts is, that although her manufacturers are forced into the lead in making improvements, and leadership often involves costly as well as successful experimentation, her rivals very quickly fall into line. Equipment in neighboring states is equally up-to-date, and this holds good very generally, even of the Southern cotton mills. Where Northern enterprise and capital have lately established themselves in the South, it is claimed that the mills are even *better* equipped, having had no old machinery too costly to be lightly put aside in favor of the new.

Concerning the increase in efficiency through increased leisure, there has been much loose and unprofitable debate.

Where hours were originally excessive, reductions were a physical benefit to employees which told in greater vigor of work. Note the traditional effect of reductions, from the twelve and fourteen-hour day to the eleven-hour system. It was a policy followed by employers as a concession to labor not in the end disadvantageous to their own interests.

Again cases are brought in evidence upon the ten-hour reduction, where the full quota of work was accomplished in the restricted day. These instances are almost invariably found in departments most purely dependent upon manual labor, as in the Holyoke thread mills, in "drawing in" for the cotton web, in cigar shops, etc. In machine work speeding the machinery does, of course, set a somewhat higher work requirement upon the tender, in this sense increasing efficiency, but the product depends most intimately upon the speed of the machine as the determining factor.

Of the several labor leaders consulted, not one has held that the ordinary factory operative succeeds in accomplish-

ing the same amount of work in a ten-hour day, or a fifty-eight-hour week, as he did before in eleven hours, or in the sixty-hour week.

The fact appears to be that the stimulus of "piece wage" has effectually eradicated the lazy employee, while working hours were already short enough to prevent exhaustion in ordinary cases. The exchange of fifty-eight for sixty hours has certainly effected but infinitesimal changes in efficiency.

Compared with the labor of adjoining states, it cannot be said that Massachusetts labor stands appreciably higher in skill. Compared with Southern labor, the cotton mills' reports bring astonishing evidence of operatives, new to the occupation, working very long hours and manipulating machinery running at a speed closely approximating that of the mills of Fall River and Lowell.

The Southern labor is of sound mountain American stock, while a large proportion of Northern operatives are short-resident foreigners. This fact is often forgotten in making comparisons between the two sections. The heterogeneous character of Northern mill-hands appears from the following extract from the report of the Labor Committee (1898) on reduction of wages:

"In 1895, the number of persons employed in the cotton mills in Fall River was about 22,398. Of this number 15,823 were foreign-born. Places of birth were as follows:

Canada (English)	217	Portugal	587
Canada (French)	6,056	Prince Edward Island	25
England	6,073	Scotland	344
Germany	64	Sweden	19
Ireland,	2,130	Other foreign countries	274
New Brunswick	13		
Nova Scotia	21		15,823

"We think this is fairly representative of the foreign-born at work in the other cotton centres." [1]

[1] WHEREAS, The factory inspectors of the various States, have learned from the results of their labors, that the inefficiency of our immigration laws are responsible for the surprising increase of a very undesirable class of people in our fac-

Massachusetts labor laws have certainly acted to induce care in methods and to encourage the introduction of improved machinery. Beyond exacting a more constant attention to work however, they apparently have not increased the productive efficiency of the normal machine-tending operative. Moreover the figures of manufacturers above presented, include all of these factors which are indeed quite inextricable from the general problem. Conclusions therefore remain the same.

Investment.

Has this tax imposed by labor legislation, then, operated to discourage investment in Massachusetts? It is unequivocally stated that "vast sums of Massachusetts capital have gone to other New England States, driven away chiefly by adverse conditions created by legislation." [1] There has been growth, but in "unmistakably reduced ratio," and this is due to "public knowledge of restrictions and limits here greater than in any other state," constituting " a direct discrimination against capital, against labor, and against the material development of the state." [2]

"The result of isolation [3] . . . was visible in the more rapid development of competing industries in neighboring states; notably in Connecticut, Rhode Island and Maine. [4]

tories and workshops, forming a menace to the health of our citizens, the rights of our laboring men and women, and the welfare of society at large; therefore be it—

Resolved, That the International Association of Factory Inspectors, in convention assembled, request that the chiefs of the department of factory inspection of the various States, recommend in their next annual report to the Governor of their respective States, that he call the attention of the legislative bodies to this existing evil, asking them to pass such resolutions as they may deem proper, calling upon Congress to enact such laws as will control and restrict the immigration of this class of people landing upon our shores.

Approved by committee, 1898.

[1] Bulletin of Wool Manufacturers, September, 1895, pp. 261–2.

[2] *Ibid.*, p. 264.

[3] In 1880, Massachusetts was the only State in which the ten hour day prevailed. She is still the only State where short hour laws are well enforced.

[4] Bulletin of Wool Manufacturers, September, 1895, p. 234.

"Upon the passage of the McKinley law, both foreign and domestic capital opened new textile industries in the United States; none of any importance chose to locate in Massachusetts. They went to Connecticut, Rhode Island, New Jersey, Pennsylvania and New York." [1]

These statements are put in a tone of conviction and authority. But there is neither proof nor legitimate protest in that misty realm, it-might-have-been.

Problem: Given a sum of floating capital, in a world full of inviting industrial ventures, determine the point at which it will fall. Did ever an economist solve equations that involved a like proportion of unknown quantities, or seek to trace a curve of so many dimensions? The "vast sums" that might have settled in Massachusetts, it would be vain for us to seek; nor should we speculate too freely on what might have become of "other New England States" if Massachusetts labor legislation had not "driven" that capital to them. Their commonplace growth, as shown in tables of statistics, would allow Massachusetts to be magnanimous upon this point.

The "unmistakably reduced ratio" of growth in Massachusetts, and the "more rapid growth of competing industries in other states," may be verified or disproved by statistics. It is a textile bulletin that makes the statement; it is the textile industry which is most evidently a "competing industry in other states." We may therefore very properly take our figures from its history.

These figures certainly do not indicate that the Massachusetts cotton industry was lagging as compared with that of her neighbors; if not the cotton industry, we may be assured no other either. Massachusetts general industrial returns have not brought consternation to the public. The government annually contemplates them with self-satisfied pride. As a whole they give no indication of a stunted growth. Outside of textile occupations there is no complaint of injury.

[1] Bulletin of Wool Manufacturers, June, 1891, p. 107.

Number of Spindles.[1]

STATES.	1831.	1860.	1870.	1880.	1887	1889.	1891.	1892.	1894.	1896.	Percentages of Increase (+) or Decrease(—) in 1896 as compared with 1887.
Maine	6,500	281,056	459,772	695,924	884,722	884,722	917,169	923,541	931,116	916,304	+11.14
New Hampshire	113,776	636,788	749,843	944,053	1,180,648	1,207,312	1,245,021	1,288,351	1,296,106	1,308,802	+10.85
Vermont	12,392	17,600	28,768	55,081	63,868	62,775	72,848	80,271	102,303	106,583	+66.88
Massachusetts .	339,777	1,673,498	2,619,541	4,233,084	5,330,120	5,905,875	6,308,925	6,847,744	7,160,480	7,790,642	+46.16
Rhode Island .	235,753	814,554	1,043,242	1,764,569	1,856,982	1,948,958	2,036,519	2,086,087	2,076,665	2,104,060	+13.31
Connecticut . .	115,528	435,466	597,142	936,376	1,092,524	1,023,928	1,046,399	1,020,070	1,033,935	1,045,937	— 4.26
New York . . .	157,316	348,584	492,573	561,658	631,676	619,472	609,589	622,399	706,859	717,423	+13.57
New Jersey . . .	62,979	123,548	200,580	232,221	351,068	351,068	381,436	439,322	439,328	439,824	+25.28
Pennsylvania .	120,810	476,979	434,246	425,391	452,735	445,962	474,729	389,985	401,841	464,017	+ 2.49

—Massachusetts Labor Bulletin, January, 1898, p. 29.

[1] United States Tenth Census—Manufacturing—Factory System, p. 10.

There are, however, other facts to be considered. Once Boston was the market of a large tea auction; the legislature laid increasing taxes upon this; the tea auction sought a more congenial centre. The tax was quickly repealed in hope of winning back that business, but it never returned. Although her general industry remains in health, there are disquieting symptoms in Massachusetts cotton mills. These must not be lightly overlooked in a too general estimate of well-being.

Massachusetts cotton mills are investing, to-day, at home little more than what the conditions of small margin and the consequent necessity of a large output forces upon them. Mr. Lovering before the Labor Committee said, "I have never known capital more timid than it is to-day in the direction of cotton manufacture in this state." Yet look again, and we see several of these same mills investing largely, with no apparent lack of capital or energy, in Southern states. The Massachusetts Mills of Lowell have a plant in Alabama; the Dwight Company of Chicopee has also a branch there; the Lindale Mills in Georgia are owned in Massachusetts; Newburyport, Massachusetts. Another Massachusetts mill-owner with important cotton interests told me that he was carrying on active negotiations with a view of actually mov- the Sparten Mills, Spartenburg, were originally settled at ing a large concern, bag and baggage, to the South. He gave it as his opinion that many other Massachusetts treasurers were investigating in the same field, and that no new cotton mill would now locate in Massachusetts, or a large mill burned be rebuilt there. It seems the very general opinion among these men, that the life of the cheap-grade cotton mill of Massachusetts is rapidly ebbing, and that the industry must inevitably confine itself chiefly to the production of high-grade goods.

This situation in the cotton industry was hardly contemplated at the time when Massachusetts passed her labor laws; and it brings serious questions now before her legislature.

A brief digression upon the present aspect of this textile manufacture in Massachusetts can therefore hardly be avoided at this point.

Situation of Massachusetts Cotton Industries.—In earlier days Massachusetts, in her great cotton manufacturing centres, long held a practical monopoly of the cotton-goods production of the country. To-day, however, her position is altered; another section competes, with increasing strength to force her goods from market.

The history of the American cotton industry in itself would give plentiful material for interesting and profitable economic and sociological study. It begins with the introduction of the factory system here; it has always been a chief subject of tariff regulation and labor-law enactments; it built a large monopoly centred in a single state, later carrying a heavy burden of state-taxation, and furnishing livelihood to thousands; dependent by its very character upon special natural and social conditions, it has seen grow up a stripling wrestler with nature's bears and lions, now to offer resistance to its Goliath strength.

We will not here attempt needless review of history. The growth of Southern competition is most apparent in very recent years. In its *Bulletin* of January, 1898, the Massachusetts Bureau of Statistics of Labor contrasts the growth of this industry in Massachusetts with that in Southern states, as shown by United States Census figures for 1880 and 1890.

"In 1880, ... the total value of goods made in Massachusetts was $72,289,518, or slightly more than seven-tenths of the output returned in 1890 ($100,202,882). During the decade Alabama and Mississippi nearly doubled their product, while Kentucky more than doubled hers. In Tennessee the output was nearly three times as great in 1890 as in 1880, and in Virginia there was a gain of 66.45 per cent. In none of these states has the industry reached a point of marked development. Georgia, however, prac-

tically doubled her product, and North and South Carolina both show a gain of more than 235 per cent. [1]

There are no later census figures for this increasing Southern growth. For more recent years Mr. Southworth (of the Massachusetts Mills, Lowell) gave the following statement before the Labor Committee (March 25, 1898):

"Since 1890, the number of spindles in Alabama has increased 139 per cent; in Georgia 65 per cent; in North Carolina 184 per cent; in South Carolina 184 per cent." We may contrast these figures with the 46 per cent of increase in Massachusetts from 1888-97.

To-day the South opposes to original Northern monopoly the steady product of 663 mills running 6,267,163 spindles. During the last decade 327 mills were planted there, 113 mills and 1,315,071 spindles being the growth of the year 1899 alone.

Let this, then, serve to indicate the increasing importance of Southern competition. It is little wonder that it has aroused the anxious questions of interested parties. The Massachusetts mill-owner, the Massachusetts operative, the government itself, have all made special study and investigations into the "reality" and the "causes" of this menacing competition. The respective statements of these investigators are characteristic and suggest bewilderingly contradictory conclusions.

The following gleanings would seem to give an approximation to the actual facts:—

In advantages, the South leads in cost of labor, estimated at from 30 to 40 per cent less than Northern, or at about two cents per pound of goods. It holds also an indefinite advantage in total freedom in hours. Against the Massachusetts mills, limited to a fifty-eight-hour week, the Southerner may run seventy-two hours at will. The lighter taxation in the South, even in many cases amounting to no taxation at all, is another evident advantage. These claims are

[1] Labor Bulletin, January, 1898, p. 3.

very generally conceded. As against the minor advantages of cheap fuel, abundant water power, nearness of raw-material, less cost of building, etc., counterbalancing considerations favor the North. The North has less cost for shipping and marketing of goods; at least 10 per cent less for machinery; a saving in rates of interest on better security, and a larger surplus capital which permits the purchase of cotton when the market price is lowest. Other advantages of more intangible nature are also urged, "economics," "public protection," "experience," "advanced laws," "invigorating atmosphere," "stimulating environment," "intelligent workmen, who have learned to know and protect their rights." [1]

These varied advantages compared in an actual market price have generally favored the South by showing a balance of at least one-fourth of a cent in the yard. The difference in actual cost of production is claimed to be two cents per pound, or 33⅓ per cent less in the South than at Fall River.

It is to be noted that the character of the advantages claimed will show Massachusetts a loser as a result of the leveling influence of time. The claim of higher skill in Northern labor is already losing its force in the face of speed and product shown by Southern machinery. Now ample credit and lower capital must also soon be looked for there. It seems indeed, to an unbiased onlooker that "Southern competition has come to stay," and that "it is foolish to ignore or belittle it." [2]

The Massachusetts Labor Bureau laid the blame for the distressing conditions of 1897-98 upon the abnormal business depression, "consequent" overproduction, and resulting pressure of competition, and the measure of accuracy of the statement is demonstrated by the return of normal prosperity with the general revival of business activity throughout the country. This must not, however, be permitted to

[1] Labor Bulletin, January, 1898, p. 38 (G. A. Chase).
[2] *Ibid.*

cloak the important bearing upon the present and future situation of the following facts. In spite of an already thoroughly established industry, in a centre calculated to attract further investments of capital seeking the occupation, a large competing business has grown up. In order thus to compete against the odds in favor of this well-organized and concentrated industry, it was obliged to produce the same goods at lower prices. This it has done. And not only this. While the Northern mills complained of overproduction, Southern mills were working day and night to fill their orders. The market continued perfectly good at the lower selling prices. In the South the mills manufactured at such price and with a profit. Cases are adduced in which the Northern mills relied upon their Southern branches to make good their loss. As an example, the Massachusetts Mills of Lowell have such a branch in Georgia. They went there in order to save their trade with China, when they found it impossible to continue the competition from Massachusetts because the Southern mills were underselling them in the New York market. Built in 1895, this mill has been "unable to keep up with orders" and has "made a profit from the start." Mr. Southworth continues, "We are able to sell, at a profit, goods made in that mill which we could not sell at all if they were produced in Lowell, owing to the difference in cost. Operations in the South have been so successful that we are now considering the increase of our plant there." The Spartenburg mills tell the same tale. They had languished long at Newburyport, but they have built two new mills out of their Southern profits. The Arkwright Club, reporting upon its investigations concerning this Southern competition, stated its belief in the "hopelessness" of continuing so one-sided a struggle as that in coarse-grade cottons.

As yet Southern mills have not attempted to make the finer grades. There seems no adequate reason why they should not in time, but advantages would at first weigh less

strongly on their side. There is, therefore, prospect that the cotton industry of Massachusetts will tend to develop upon these lines. "It will abandon certain kinds of goods which cannot be profitably made; it will extend the output of others and cheapen production by improvements in machinery and processes; the industry in each section will take the form to which is best adapted."[1] In this conclusion the *Bulletin* appears to recognize the fact of unproductive conditions in branches of the Massachusetts cotton industry.

Natural conditions weigh against this occupation in Massachusetts; a stronger force than state legislation is determining its future. Years since, Massachusetts lost her iron-works; this was not on account of labor legislation. Nor can we now believe that the repeal even of every labor law would permanently alter the present situation.

Given, however, such weight of adverse conditions; given laws which, as we have seen, impose an appreciable tax, when every least saving counts; we are driven to conclude that this legislation has tended to *hasten* the departure of the industry of producing the heavier grades of cottons from the state.

Effect on Wages.

Thus far we have treated of effects chiefly as concerning employers. We must look now at results more immediately connected with the interests of those employed. What has been the influence of labor legislation upon wages? In the heated discussion which the question has aroused, the respective claims of labor and capital confront us in form as irreconcilable as yes to no.

Approached without prejudice, however, the problem of ascertaining the rise or fall of wages due to restrictive labor legislation appears at first simple, but so intimately do such variations depend upon other economic forces, that almost endless difficulties arise in the process of elimination. In-

[1] Labor Bulletin, January, 1898, p. 42.

dustrial statistics show a constant advance in labor earnings, with little reference to the dates of labor laws; the continual introduction of refinements in machinery has had an overpowering influence upon this progress; concessions to the demands of trade unions have contributed a large, but indefinite, share, while fluctuations in business prosperity which cause temporary changes in rates further complicate the problem.[1] In cases where special advances have appeared, more local reasons are always forthcoming as sufficient causes.

An illustration will perhaps make the situation more intelligible. Here, for example, is a case where the rise in wages was exclusively due to new machinery. A number of old Bigelow carpet looms were replaced by new looms of similar general construction, but running at twice the speed and therefore weaving twice as many yards of goods per day. The output in yards being doubled, the rate of piece wage was cut about 25 per cent, leaving an increase in day wages of about 25 per cent. In this instance the rise in wages was perhaps unusual owing to the length of time that the old machines had been in use; it, however, serves to indicate the importance of the influence which in hundreds of less evident instances should nevertheless be credited to machinery. Speed is, of course, only one of the many mechanical improvements which have increased the working capacity of labor and accomplished a saving in the cost of production,

[1] *Changes in Wages, 1880 to October, 1900.—Textiles.*

February. 1880, advance of ten per cent.
February, 1884, reduction of five to eight per cent.
February, 1885, further reduction of about six per cent.
March, 1886, advance to former list.
April, 1891, advance of four per cent. to mule spinners only.
July, 1892, advance of three per cent. to make weekly earnings under fifty-eight-hour law same as before.
September, 1893, reduction of seven to ten per cent.
August, 1895, advance of five to seven per cent.
January, 1898, reduction averaging eight per cent.
April, 1898, restoration to January, 1898, wages.
December, 1899, wages advanced ten per cent.

which redowns to the benefit of both employer and operative as illustrated above. Indeed, practical examples under this head might be multiplied *ad infinitum.*

Again it hardly needs argument to convince an American public of the strength with which organized labor pushes its interests in the industrial world.[1] So costly are the large strikes to all concerned that no manufacturer will ignore symptoms of discontent among his operatives, until the point of outbreak, if business conditions warrant a more conciliatory course. Nor are the labor unions slow to recognize and take advantage of seasons of prosperity when their demands are likely to be heeded. All employers appreciate the steady pressure of this force, and it is certainly unfortunate that we have as yet no means which can even approximately measure it. This sensitive wage barometer responds to the slightest changes in business atmosphere; be there disturbance of war or rumor of war, at hand or in the remote corners of the earth, the surge of a national election, the year's agricultural crop or increasing markets, all are registered in some degree in corresponding fluctuations of the wage column.

In such an entanglement of immediate causes, a study of statistics which concern the resultant alone could avail little to enlighten us, and would certainly lead through a wearisome way. Failing figures, the question was religiously put to employers, labor leaders and government officials, that at least some statement of a general opinion might be entered here. But this also was a vain hope.

Employers said in substance: We have never attempted to figure it out. We have an ample labor market and pay a stated day or, more generally, piece wage. While there is a steady market, this remains the same; but when the demand increases or gives prospect of increase or can be tempted, even by slightly decreased prices, we put in new machines of greater capacity to the labor attending; we cut *piece*

[1] Instance the late strike in the Anthracite Coal Regions.

wages in less proportion than the machine increases labor capacity, and consequently wages rise. If our operatives grow restless or threaten strike and ask for higher wages, and business conditions allow, we advance the day, or piece, rate slightly. We have never knowingly given more wages because of reduced hours, or other labor restriction; we have no reason to believe that legislation has had an appreciable effect.

Labor leaders said: We are not scholars or economists to offer a theory, nor can we give you any explanation of the fact; but there the fact stands. Every shortening of the hours of labor has been attended with an advance in wages. That is enough for us to know to keep us working toward more of the same thing.

Inspectors said: We cannot judge at all.

Officers of the Labor Bureau said: Statistics are not yet complete enough to justify deductions. We can only say that in general real wages are rising.

Discussion of this wage question in the main centres about restriction of hours as the effective cause.

In contrast with the attitude of the labor leaders, we have seen the constant voluntary evasion of the ten-hour law by employees.[1] In 1887 the inspectors made note: "Discontent with the ten-hour law is not found only among mill-owners, but also in workers, who earn less day wage."[2]

New England, outside of Massachusetts, is unembarrased by short-hour legislation, or to an appreciable extent by any other labor restrictions. The idea therefore suggests itself that a comparison of the rates of wages in parallel employments in these states, by eliminating common factors from the problem, may throw some light upon the question. Are wages in law-bound Massachusetts higher or lower than those in sister commonwealths? Let us glance rapidly over a few comparative statistics.

[1] Massachusetts Police Report, Inspection, 1887, p. 20.
[2] *Ibid.*, pp. 14, 15.

Here is a table which presents the average weekly earnings in wool and cotton mills as given by the United States Census of 1890:[1]

STATE.	WOOL MILLS.		COTTON MILLS.	
	MALES.	FEMALES.	MALES.	FEMALES.
Massachusetts	$8.79	$6.03	$8.05	$5.89
Maine	8.79	5.98	7.52	5.68
New Hampshire	8.67	6.11	7.56	5.83
Vermont	9.05	6.59	7.53	4.50
Connecticut	8.93	6.43	7.68	5.69
Rhode Island	8.98	6.20	7.99	5.70
New York	9.09	5.91	7.62	5.28

In the wool mills, four neighboring states pay higher wages than Massachusetts to both males and females; only one of the six drawn upon for comparison, New Hampshire, pays less to males; and only two, Maine and New York, less to females. But on the other hand, in the closely allied occupation of cotton mills, this state outstrips all in the rate of wages given.

How do the more general figures in regard to state industries compare? The average annual earnings per employee have also been tabulated in the National census.

STATES.	OPERATIVES.		PIECE-WORKERS.		EMPLOYEES (Unsaleried)
	Males.	Females.	Males.	Females.	
United States	$498	$276	$500	$255	$445
Maine	380	266	380	189	326
New Hampshire	416	292	437	260	365
Vermont	401	292	376	262	381
Massachusetts	540	299	520	316	460
Rhode Island	498	287	550	300	410
Connecticut	543	292	555	303	473
New York	582	300	532	270	492
New Jersey	554	274	538	250	477
Pennsylvania	511	273	529	261	462

[1] U. S. Eleventh Census: Manufactures—Textiles, pp. 135, 207.

[2] *Ibid.*—Manufactures, I, pp. 22, 36.

Analysis of these figures shows that Massachusetts pays more for the day-labor of males than do five of the eight neighboring states, and more for that of females than do seven. In her piece-work, males earn less than do those of five other states, females more than those of any of the states entered. The column of undiscriminated wages puts Massachusetts in the very centre—four pay higher wages, four pay lower. Turning attention for a few moments to some of Massachusetts' rivals, it appears that wage rates in Rhode Island, Connecticut, New York, New Jersey and Pennsylvania vary quite as much in reference to each other as they do when referred to Massachusetts.

Another interesting comparison is that between the average annual earnings of males in six industries common to the ten states having the largest number of employees. [1]

STATE.	Carpentering.	Carriages, Wagons, etc.	Clothing, Men's Factory Products.	Foundry and Machine Shop Products.	Masonry.	Tobacco, Cigars, Cigarettes.
Connecticut	$682	$670	$497	$591	$685	$560
Illinois	644	543	401	554	614	516
Massachusetts	683	609	637	581	680	545
Michigan	518	446	461	526	548	490
Missouri	670	498	466	568	649	494
New Jersey	724	574	521	565	769	483
New York	727	553	596	598	654	515
Ohio	588	483	295	530	583	410
Pennsylvania	663	489	583	563	649	377
Wisconsin	539	459	304	502	470	455

Massachusetts regularly leads at least seven of the ten states entered in this table, although in only one industry, the manufacture of men's clothing, does she give the highest wages offered.

New Jersey is the only state which has passed an act to secure shorter hours—55 per week—than obtain in Massachusetts. We insert therefore a table of comparisons drawn between these states for the year 1895. [2]

[1] U. S. Eleventh Census—Manufacturers, I, p. 28.
[2] Massachusetts Labor Bulletin, July, 1897, p. 39.

Comparative Average Yearly Earnings.

INDUSTRIES.	AVERAGE YEARLY EARNINGS.	
	New Jersey.	Massachusetts.
Artisans' tools	$535.25	$548.09
Boots and shoes	433.99	487.86
Boxes (paper and wooden)	310.53	391.67
Brick, tiles and sewer pipe	387.87	460.79
Buttons and dress trimmings	329.70	359.30
Carpetings	278.64	370.14
Clocks, watches and jewelry	412.46	517.02
Clothing	305.03	400.23
Cooking, lighting and heating apparatus	434.66	644.28
Cotton goods	383.87	329.78
Cotton, woolen and other textiles	308.60	375.64
Earthen, plaster and stone ware	405.24	491.19
Electrical apparatus and appliances	420.38	525.79
Glass	701.07	542.38
Hosiery and knit goods	263.97	333.32
Leather	430.28	478.92
Machines and machinery	465.20	534.48
Metals and metallic goods	505.22	515.16
Oils and illuminating fluids	531.85	525.27
Printing, publishing and book binding	415.25	555.75
Rubber and elastic goods	353.66	431.55
Silk and silk goods	372.27	344.09
Straw and palm leaf goods	234.12	422.11
Tallow, candles, soap and grease	481.20	485.94
Tobacco, snuff and cigars	281.03	634.43
Wooden goods	279.89	534.25
Worsted goods	251.80	356.96

From these figures we see that Massachusetts pays the higher wage in twenty-three out of the twenty-seven industries tabulated. Upon the other hand, if we compare rates in Massachusetts in 1890 with those throughout the country as chronicled in the United States Census, Massachusetts appears to give lower rates in twenty out of twenty-three industries.

To sum up the evidence contributed by these tables: Massachusetts, as compared with neighboring states, pays higher wages in cotton mills, lower in wool mills; in general gives

INDUSTRIES.	AVERAGE YEARLY EARNINGS.	
	Massachusetts.[1]	United States.[2]
Agricultural implements	$405.88	$466
Artisans' tools	446.94	543
Boots and shoes	387.12	454
Boxes	309.54	370
Carpetings	289.27	387
Carriages and wagons	450.98	508
Chemical preparations	450.31	486
Clothing	291.32	373
Cotton goods	268.03	302
Electrical apparatus	573.04	513
Food preparations	264.03	352
Glass	451.85	465
Hosiery and knit goods	258.39	278
Ink, mucilage and paste	298.07	497
Leather	443.34	538
Paper and paper goods	362.05	415
Printing, publishing and binding	441.35	551
Rubber and elastic goods	347.74	399
Scientific instruments	403.81	602
Silk and silk goods	275.80	360
Tobacco, snuff, cigars, etc.	390.81	233
Wooden goods	392.61	365
Woolen and worsted goods	292.05	344

rather higher day wage, yet in the average earnings of all employees, stands exactly at the middle point. In six stated industries she pays higher wages than seven out of ten states. As compared with New Jersey in twenty-seven industries, Massachusetts' wage rates are higher in twenty-three; as compared with average rates throughout the country in 1890, she was lagging in twenty out of twenty-three. In fine we learn that Massachusetts is a very important manufacturing centre, that in wages she sometimes pays more and sometimes less than other states or the general average, that if we shift our comparisons similar variations in wages occur between other states with no discoverable relation to labor legislation. In the last two tables presented, the figures suggested anything but favorable deductions as to

[1] Massachusetts Bureau of Statistics of Labor Report, 1890, pp. 564–566.
[2] U. S. Eleventh Census—Manufactures, I, pp. 36–45.

the effect of short hour legislation upon wages. We must remember, however, to be on our guard when dealing with these averages which, as compiled by different bureaus, are not based upon exactly the same classifications. Indeed efforts to interpret such statistical figures tend rather to exercise the mind in flights of imagination than to develop logical lines of argument.

Therefore, while we may feel that the data given are not sufficient to justify the sweeping statement that short-hour legislation or labor restrictive legislation in general has actually reduced wages, it would be equally extreme to claim upon the basis of these figures that they had caused a rise in wages.

We must conclude, as did the Hon. Amasa Walker, "There is no sufficient evidence that wages have risen in consequence of, or contemporaneously with, the reduction of hours of labor," [1] or the enactment of other measures of labor legislation.

Employment.

For the sake of argument we may allow, then, that shortened hours of labor do not appear to have acted to increase the wage of the individual worker, nevertheless has not the result followed to workers as a class through increase of numbers? Has not this restrictive legislation increased employment? The argument on one side is that under shorter hours, in order to keep up the product, more labor must be employed. (Here it may be noted, in parenthesis, that this statement ignores the previous claim that short hours are already compensated by greater efficiency of the original company of workers; and does not count the extra wage payments as an increasing cost of production.) The answer rests upon other grounds. The number of employees in a given factory is strictly limited by the amount of machinery there provided for them to tend; such limit upon

[1] Report of Majority of Commissioner on Hours of Labor to the Massachusetts Legislature, 1867.

numbers can, therefore, only be raised by new investment in like machinery. The contrary tendency is claimed, that restrictions placed upon labor make the manufacturer seek to dispense with it as far as possible, new investment in machinery seeking that of labor-saving value. "The diversion of labor-taxed capital into new investments in other states may there increase employment, but not in Massachusetts."

Cases present themselves in support of both claims. In the building trades, clothing industry, etc., such increase of employment has been evident; in cotton mills and generally where machinery is expensive there tends to be a decrease in the proportion of labor. The problem of the unemployed in Massachusetts seems to be as far from solution as elsewhere; certainly shorter hours have not acted to any appreciable extent to absorb enforced idlers in productive industries. [1]

The claim that legislation has driven employees away from Massachusetts to other states where longer hours prevail is too groundless to deserve discussion. Labor is to a certain extent migratory everywhere, but there has been no perceptible increase of migration from Massachusetts. At a border line a few discontented operatives may have moved to neighboring mills, but their number has been insignificant.

Effect upon Woman and Child Labor.—We have seen that nearly the whole of this restrictive legislation bears directly upon the labor of women and children. Has it, then, resulted in decreasing their number in factories?

Inspectors' reports, from 1878 on, note a continued decrease in the number of children employed. In 1882 the reduction in numbers during the previous two years was estimated at 50 per cent. [2] Prosecution for violation became less frequent, and compliant employers found the exactions of school certificates, employment tickets, etc., such con-

[1] Brentano, Hours, Wages and Production, p. 69.
[2] Massachusetts Police Report, Inspection, 1882, p. 25.

tinual annoyance that they preferred to dispense with child labor so far as possible. The United States Census chronicles a decrease in Massachusetts of employed children under fifteen years of age from 21,363 in 1880 to 9,716 in 1890, or of more than 54 per cent in the decade.

The Massachusetts returns for 1897 were as follows: Number of children employed in manufacturing and mercantile establishments and workshops, 13,324; between the ages of thirteen and fourteen years (under fourteen), 104; between the ages of fourteen and sixteen years, 13,220. In ten of the very large manufacturing concerns of the state there was a decrease, between 1892 and 1897, from 635 under sixteen years of age to 397, or of about 37 per cent. These statement were readily confirmed by the observations of manufacturers and labor leaders interviewed.

Although allowance must be made here for improvements in machinery which have made automatic many processes before given into the hands of children, and to the public sentiment which frowns upon their employment, we are still warranted in attributing a substantial influence to legislation in the attainment of the above results.

The same does not, however, hold true with respect to women. The proportion of women employed in Massachusetts is not appreciably decreasing. Restrictions upon the labor of women involve far less inconvenience than is imposed by the details of child-labor laws. The limitation to short hours is the only really serious drawback to their employment. The cheapness of their labor, added, in some of the more delicate operations of manufacture, to their superior dexterity, is sufficient largely to counterbalance this disadvantage.

Conclusions Summarized.

We may summarize our conclusions as to the economic effects of Massachusetts labor legislation as follows:

1. A real and appreciable tax has been put upon the industry of Massachusetts.

2. This has been a goad, increasing the ordinary incentive of competition to urge the use of better machinery and more careful management, and has forced her manufacturers to take the lead in the introduction of improvements. Neighboring states have, however, quickly imitated her successful methods.

3. Improvement in machinery, speed, etc., involves somewhat higher work requirements, and in so far increased efficiency. The reduction of hours below eleven has been accompanied by an offsetting increase of efficiency only in a few cases of arduous and predominatingly manual labor. Piece-work had already fulfilled its function here.

4. Whereas statistics of manufacture show Massachusetts to be growing at a normal rate, and with no evidence of injury from her labor laws; one industry of importance is in an unmistakably critical situation. There is reason to believe that the heavy-grade cotton mill is leaving the state. In this case natural conditions weighed already against Massachusetts, and legislative restrictions have been a tax tending to hasten the departure of the industry to the more favored South.

5. The effect upon wages has been slight and is very difficult to estimate. The influences of improved machinery, of the demands of labor unions and of market conditions, have been so great as to overshadow that of legislation. Comparison with other states compels the conclusion that there is no sufficient evidence of a tendency in restrictive legislation to raise wages.

6. We found increased employment in building trades, etc., fully offset by tendencies to save labor by machine work. Unemployment remains an unsolved problem in Massachusetts.

7. Protective legislation has unquestionably reduced child labor, both directly by the restriction of such labor, and again indirectly by the stimulus given to mechanical improvements which have raised the requirements of at-

tention, etc., and made work before given to children automatic.

8. The number of women employed has maintained a constant ratio. The restrictions—chiefly in hours—have been offset by the cheapness and dexterity of female labor.

9. Among manufacturers the disquieting influence of the constant threat of further protective measures on behalf of labor is noticeable as an obstacle to business confidence. Bills are each year brought before the legislature, backed by a political party of constantly growing strength.

10. Another economic effect of this legislation is the unestimated expense which years of struggle for and against the passage of these laws has imposed upon both laborer and capitalist. This must aggregate no inconsiderable sum of money.

It may be objected that the evidence above presented, and from which our conclusions have been drawn, is taken principally from the experience of textile manufacturers. There are several justifications for this procedure.

1. Labor legislation in Massachusetts has centred about the textile industry as the chief branch of manufacturing in the state.

2. Textile manufactures have felt the effect of legislation more keenly than others; have taken a more active part in discussion; and have therefore presented more evidence bearing upon the subject. Other industries have rather held aloof from the contest.

3. Conclusions may be quite as scientifically arrived at upon the basis of these facts as upon evidence drawn from a more diversified field. For if it is shown that restrictive legislation imposes a tax upon textile industries, and the data also indicate the amount of that tax, other occupations equally under the operation and enforcement of the same laws must suffer in the same way. It may indeed be that they are better able to bear it and do not feel any particular injury from it.

CHAPTER III.

EFFECTS OTHER THAN ECONOMIC.

Health—Standards of Living—Citizenship.

We have laid much stress upon the strictly economic consequences of labor legislation. It is no less incumbent upon the economist, who would make a critical study of these restrictive measures, to recognize the importance of other considerations. In the end these may affect the economic situation even more than such matters as increased or diminished product, or higher or lower wages.

Health.

Of prime importance is the standard of health in the community. What has Massachusetts labor legislation done for the health of her workers?

At the time when the ten-hour bill was eliciting warmest discussion (1865-1874), a chief argument presented in its favor was that "the health of female operatives demands it!" So important was this point made that the government called upon the Board of Health for a special investigation in 1871. The report then given upon the "Health of Minors in Manufacture" contained the following statement: "A comparison of the death rate of operatives with that of the whole popu-

lation at the same ages, for the years 1860-65, allowance being made for war deaths, showed the figures to be 'remarkably close.'" Estimates of absence from work, on account of sickness, asked for from employers, varied approximately from zero to 5 per cent; while many replied that absence from the mills had been too trifling to record.[1] The result of the investigation convinced the Board that there was very little evidence of special disease or unhealthiness due to laboring in factories, even in those days of long hours.

The validity of these deductions has been adversely criticised.[2] But Dr. Derby's conclusions do not stand entirely alone in their testimony to the general good health of operatives. The commissions of 1865 and 1866 held the same view; while the opinion of practitioners among factory hands bore out the testimony. More general studies made both in the United States and England further corroborate this opinion on the basis of a wider experience.[3]

That long hours and lack of open-air exercise often led to great fatigue it is not attempted to deny, and the community must recognize that industrial prosperity depends largely upon keeping its labor energy strong and fresh. If, day after day, the worker leaves her machine in an exhausted condition this cumulative pressure tends to sap away her vitality, and instead of developing into a more skilled operative she is likely to become less efficient at her task. The passage of the ten-hour law in 1874, however, appears to have put an effectual check to this danger in Massachusetts. Since then the argument of extreme fatigue has been abandoned by labor leaders, who seek to base their claims upon some other ground.

Factory Sanitation and Health.—It is noticeable that from the first, the health remedy proposed was shortened

[1] Derby, G. (M. D.)—Health of Minors in Manufactories.—1871, Senate Document, 50.

[2] Cowley, Charles—Argument for Petitioners in Ten Hour Bill before Joint Special Committe. Pamphlet, pp. 102.

[3] See Bibliography.

hours instead of better ventilation and sanitation for the workroom, which would have seemed the prior need. Possibly this was due to the fact, already noticed, that the working class itself instituted the movement and was hardly in a position to appreciate the importance of the latter reform, or it may have been only the easy confusion of argument with object.

Certainly the construction of old factory buildings displayed little forethought or provision for the health or comfort of employees. Visit to-day the workrooms of an average modern factory, and then that of an old one, be it ever so carefully remodeled to the legal requirements. The light, airy room, and cheerfulness of surroundings in the new stand out against the cramped and gloomy quarters of the old, in a contrast that must convince even the most skeptical of the blessing of this advance. The latter is confined to the workroom practically throughout the day. Under conditions of insufficient ventilation the air of a factory could not long be expected to retain its freshness and to breathe for hours every day such a vitiated atmosphere must have added greatly to the wearisomeness of the day's work. Many processes of production tend, in themselves, to produce injurious conditions, but, until regulated by law, this fact was generally unheeded both by employer and workman, either because of indifference to, or ignorance of, the principles of hygiene. To-day, however, stringent, and, we may fairly say, well-enforced laws control such cases.

The system of ventilation to be used must now be submitted with the plans of every new factory, for approval by the chief of police or the inspector, and those buildings in which it was originally lacking must be remodeled to the satisfaction of the inspectors. To-day, also, there is a special legal remedy in cases where a process which engenders unhealthy conditions is not properly protected, and the inspector is empowered to order the use of such form of ventilating mechanism, or contrivance "not excessively ex-

pensive," as shall answer the necessity of the case. In conditions of ventilation, as the Hon. Carroll D. Wright suggests, the modern factory compares quite favorably with the modern school room or lecture hall.

Ventilation, cleanliness and sanitary conditions are insisted upon in factories, and have certainly done as much to check the slow wearing out of life in the daily round as have safety provisions to guard against the more sudden disasters of accident. We cannot but believe that these more healthful and sunny surroundings have done more than the shortened day to increase the bodily vigor of the factory girl.

Factory Children.—Among regulations which have contributed to protection of health, the laws concerning child labor must take a prominent place. In Massachusetts they have had a great measure of success in expelling children under fourteen years of age from the factory, and in lessening the amount of child labor. This has been an unquestioned physical gain as measured against the serious drawback which steady confinement and monotonous work formerly imposed upon the health and strength of growing children. But let us not enter into discussion where the facts are so palpable and so universally admitted.

Standards of Living.

Next to health, the most important effect must be sought in connection with the standard of living of workers. Conditions here react upon the efficiency of production in a most vital way. Low-grade labor may be an incalculable hindrance to progress in production.

Compare the daily labor accomplishment of England with that of continental countries even in the less skilled occupations. It is a common boast that an Englishman can do more work in a given number of hours than the toiler of any adjacent country. Thomas Brassey attests the superiority

of his countrymen in road-building, navvy work, etc;[1] in Ireland—Belfast excluded—Schoenhof found improved machinery in the woolen mills, but an output "far below" that of England or America.[2] Cases might easily be multiplied in illustration of this point.

Note further, the difficulty experienced in attempts to force up the labor requirement in these countries, either by increase of machine speed, or by the addition of a few spindles, etc. In Italy, it is claimed that speeding machinery is futile, on account of the slow motion of the women, who cannot keep the pace and only bungle their work. Examples are also given of cases where increased wages were refused, rather than, as a condition to them, accept the care of a larger machine such as was regularly tended in England or America.

What then is the origin of such differences in labor capacity? Among the causes usually given the *physical superiority* of the Englishman stands first. It has been openly recognized in Germany. Why is he stronger? Because he lives better, more healthfully. "The English workman lives on meat and wheat-flour bread, whilst potatoes form the chief sustenance of the German factory worker."[3]

The relation and sequence of cause and effect have been carefully studied and sufficiently argued; we may sum up the general conclusions in a sentence.

Better food requires higher wage; consequent physical efficiency warrants reduction of working hours; more leisure gives opportunity for education, increasing the worker's intelligence; this in turn contributes further to labor ability; time and education foster social life and desires, and so act to improve home surroundings (more cleanliness, comfort, etc.); they react upon industry by increasing the home market for goods. The development thus forms a continu-

[1] Brassey, T.—Work and Wages. Ch. IV.

[2] Schoenhof, J.—Economy of High Wages, p. 39.

[3] Schulze-Gaevernitz—Cotton Trade, p. 19. See also, Brentano—Relation of Wages and Hours of Labor to Work Accomplished.

ous spiral. Though a slow process, it is, nevertheless, a sure advance toward higher standards of living.

"There being no uniform and established standard of wages, they vary according to the expenses of subsistence in different countries, and the conditions in which the laboring classes are willing to live." [1]

Schulze-Gaevernitz, Schoenhof, Brassey, Atkinson, and other authorities, contend that higher wages can and generally do go with lower labor costs in production, and tend to encourage the introduction of labor-saving machinery; while the increased power of consumption fostered in the laboring class, has been one of the strongest influences extending the English and American home markets.

Returning to the case of Massachusetts, what testimony is there that the legislation reviewed has contributed to raise the standard of living of workers? The same answer is given to this question by employer, inspector, labor leader and charitable worker.

At his work the operative has become accustomed to cleanliness, air, light, and good order and has begun to miss them if they are lacking in the home. Thus the general verdict is that the legal requirements in regard to sanitation and so forth in factories, which have so altered the surroundings of workroom life, have at the same time served perceptibly to encourage like cleanliness and care-taking in the home.

The menace of coming illiterate generations which was not at all to be scoffed at in 1870 is no longer feared. Thirty years ago children, as young as eight years of age, were often to be found at work in mills and workshops, but to-day a legal age limit which banishes children under fourteen years from employment meets with general compliance. The aforetime "factory children" have become the "school children" of to-day. If there are still illiterate minors, they must lay chief blame to themselves. There is not to-day any

[1] Walker, Hon. Amasa—Science of Wealth, p. 225. See also Gunton, G.—Wealth and Progress.

lack of opportunity; lack of appreciation of opporunity is the cause of such illiteracy as prevails, and is confined almost entirely to the newer foreign element. The best devised law and strongest police force would be obliged to content itself with incomplete achievement here.

Opposition was at first made to the weekly payment of wages. It could be no advantage to the thrifty, who easily secure credit and with monthly pay have the advantage of buying in bulk; it would be an injury to the weak and dissolute, substituting four monthly temptations for one. This statement of opinion on the part of some employers has not yet received the support of figures.[1] Intoxication has not increased; for superintendents make short work of dismissing such unreliable service, with most healthfully sobering effect.

Workers themselves claim an advantage in cash payments, which allow them to trade where they find the best bargains and not only where they can obtain credit. In Lawrence it was remarked that rent, food, etc., fell in some cases nearly 20 per cent, and shops where operatives used to trade exclusively were forced to cut prices and encounter close competition.[2] Under the system of monthly payments, operatives had also frequently found themselves obliged to ask for wage advances, a favor generally heavily discounted at the office, often at the rate of 10 per cent.[3] Weekly payments appear, indeed, to have conduced to home economy on the part of the workers.

Citizenship.

Lastly, has this legislation had any effect upon the development of citizenship? The shorter hours conceded by law to labor have been little "misused" and have caused no "increase of laziness." The solicitude indicated by this ob-

[1] See Inspectors' Reports. This testimony was corroborated in interviews by several employers who had made previous voluntary experiment.

[2] Massachusetts Police Report Inspection, 1887, p. 59.

[3] Porritt, E.—Factory Legislation in United States, p. 192.

jection appears almost hypocritical in face of the silence which never questions the propriety of erratic shut-downs at the convenience of manufacturers.

The argument for shorter hours appears to be strongly supported here. From the beginning, advance towards civilization, and in civilization towards higher attainment, has been conditioned upon leisure time beyond that necessary to the gaining of a livelihood. It is a wide law and it applies throughout. Leisure is equally a requirement for the advance of our laboring classes to better conditions of living.

Short hours in Massachusetts have contributed their increase of opportunity which has not been neglected. Not only do we find libraries and lecture courses offered; but to-day, as never before, labor flocks to use these and asks always for more of them. On a half-holiday we find many in the public museum or gallery. Compare these Massachusetts operatives with those of other states. They stand the acknowledged leaders of their class in this country, organized, intelligent, progressive.

Perhaps their voice has grown stentorian, but they are ready and able to argue their point. It is the testimony of the Board of Arbitration that operatives have shown a knowledge and appreciation of the methods and aims of arbitration, and an intelligent recourse to them, quite equal to that of their employers. The trade union with its problem of organization and its school of free discussion has been the chief instrument in this education, but its efficiency has depended upon hours of leisure away from the factory. Experience of social intercourse, of the necessity of discipline in trade-union organizations, and of the weight of logic in argument have given workingmen a new appreciation of their own relation to order, government and the community.

Summary.

The legal sanitary requirements of cleanliness, light, ventilation, etc., in the factory act to improve the health and

spirits of workers, and tend to induce the same conditions in their homes.

Restrictions upon child labor have expelled at least 75 per cent of the original number of working children from employment, substituted the schoolroom for the factory, and regulated work for minors in general.

Weekly wage payments appear to have encouraged household economy rather than to have fostered dissolute living.

Restrictions upon labor have brought increased social and educational opportunities within reach of operatives; have advanced the interests of good citizenship among them; have tended to raise their standards of living, with important economic consequences in broadening the home market.

CHAPTER IV.

MASSACHUSETTS LABOR LEGISLATION VIEWED FROM THE STANDPOINT OF ECONOMIC THEORY.

The Position of Government—Principles of Government Interference—Critical Review of Massachusetts Labor Legislation upon the Basis of the Study Presented.

We have now studied the labor laws of Massachusetts, noted the influences which led to their enactment, and examined their practical enforcement by inspection and prosecution. We have reviewed such facts as could be collected to show the effect of these regulations upon industrial and other interests. We are now in a position to judge this legislative accomplishment from the viewpoint of economic theory.

In how far has Massachusetts labor legislation been in accordance with the teachings of economic theory? What are the teachings of economic theory?

The Position of Government.

First and foremost stands the economic principle that the individual knows best what conduces to his own interest. It is the economic side of the ethical doctrine of the right of the individual to freedom for self-development, or self-realization.

In human history the individual has not been equal to coping alone with his task even of self-preservation. Men have therefore congregated into companies, tribes, hordes and nations for mutual aid and protection. Within such groups however there have arisen antagonistic interests, as between individuals. The self-seeking of one conflicts with the well-being of another. They limit each other. Such conditions could only lead to a struggle in which the less strong must fall. The counter-balancing requirement of united action was put upon each group by external warfare between tribes. Thence was imposed the necessity of preserving internal peace.

Now conditions were ripe for the coming of government. Government was born to the duty of adjusting the contending interests of individuals for the "common good." From the first it put restraint upon this or that individual only to secure the "greater average freedom of all."

How did government know how to govern—what to allow, what to forbid? The general answer is, it did not know, it had to learn by centuries of experiment. Unequal were rewards and punishments in its school. The test was survival.

The evolution of government has accompanied and accorded with the stages of economic progress. In its relation to these economic and industrial interests of advancing civilization, the historic tendency of growth is distinctly traceable. Its first office was to preserve a semblance of order and security. From protection, we see it, in the Middle Ages, advance to regulation of industry, often extending to the most minute details of occupation, such as the rate of wages to the worker, the length and breadth of goods, the place of sale, etc. Industrial advance, however, broke over these stiffened, hindering enactments, and a new economic doctrine of non-interference or *laissez-faire,* was evolved.

From protection, to regulation, to free contract; such has been the development of the relationship of law to in-

dustry. The lesson of all evolution is that such a course of advance cannot be disregarded by the law-givers of to-day. Legislation must keep in line with that which has gone before.

Principles of State Interference.

Principles are always deductions from sequences of fact. The facts of the history of governmental development lead the philosopher and the man of common sense alike to hold the following beliefs:

1. The freedom of the individual to pursue his own interests as he will, must be respected.

2. Where conflict of interests arises the "common good" takes precedence over the desire of the individual. This is the basis of justice, the teaching of humanity, the ground of patriotism. But let the state here recognize a moral limit and not invade to degrade the manhood of its least member.

3. Law must be guided by experience.

In sum, the policy *"laissez-faire"* must be corrected by such interference as experience has taught will result in greater benefit to the community.

And what has experience taught? The Duke of Argyle put the outcome most concisely when he said: "The two great discoveries of this century are (1) the advantage of freedom in trade, and (2) the necessity of restriction of labor."

We are here especially concerned with the second of these discoveries.

Suppose labor to be left unrestrained, what would be the natural course of its life in industry?

1. Competition between producers encourages all possible reduction of costs. This tends to reduce wages, to increase the use of child labor, to perpetuate long hours of labor, etc. A few unscrupulous employers, resorting to such oppressive methods, are able to force others to adopt the same policies. The interests of the employing class range themselves against those of the operative class.

2. In the struggle which results from this antagonism the employer has the advantage of position to force his own terms of contract upon the laborer. He has in his hands an accumulated capital which is equivalent in power to effective organization.

3. These industrial conditions, left to take their own course, react upon the home and general social surroundings of labor to force down the worker's standard of living. This is an injury which no community can afford to tolerate.

Here, then, are distinct evils. Who is to right them? Employers cannot do so without widely organized effort. Their personal interests are directly opposed. The laborers have indeed made some attempts to improve their own condition, also by organized effort. Their success has been too local, too spasmodic, too slight. The end has not been accomplished. Furthermore, the worst effects of unregulated labor are found, of course, where labor is least able to protect itself against these evils.

Will not the philanthropic community come to the rescue? Doubtless, when its attention is at last attracted, but it is hard of hearing as a pagan god. It has not yet gone seriously to the task. It calls upon the government.

This, the State, remains. The guardian of the public good alone stands in strength and position fitted to assume the responsibility. The State must interfere to protect and adjust the interests of labor within the industrial mechanism.

The evil tendencies, above noted, point here to the field within which state interference may be justified. (1) The State may determine the "plane of competition." (2) It may equalize the conditions of contract as between employer and employee. (3) It may intervene to protect the standards of living of the workers. The only limits that theory places upon these three lines of interference are considerations of the general good.

In comparing these ends, local circumstances present each case of abuse or evil to the legislator, as a separate problem

for solution. Each case must be weighed and dealt with upon its own merits.

The following criteria may be laid down:

1. Against the presumption of present good ("prevailing conditions must be at least endurable"), there must be brought positive proof of evil, and of a degree of evil to warrant interference.

2. There must be certainty that remedy cannot be looked for from individual initiative, from self-cure, or through growth.

3. The legislator must be assured that the law proposed will not create other evil to counterbalance the good.

4. The regulation must not lose itself in detailed discrimination between cases, or in too minute regulations.

5. It must not give a dangerous precedent for future action.

6. It must be enforceable. The law must not be lacking in technical form as entered upon the statute book, nor must it trust to questionable or insufficient police force outside. Unenforced laws are worse than no laws at all, for they throw discredit upon the governing power.

7. Concerning the legislation of a Commonwealth within the United States, another requisite of importance must be considered. Such legislation must be constitutional. Does it contravene "freedom of contract?" Does it exceed "police powers?" Is it "class legislation?" These questions must be answered.

Critical Review of Massachusetts Labor Legislation.

Bearing this study of facts and theoretical teaching in mind, the criticism of Massachusetts labor legislation may be essayed.

Child Labor.—The condition of unregulated child labor presented convincing proof of evils. There were none at hand to bring the relief which was a pressing need. Greedy parents would bind out their children for the most paltry

sums, regardless of health or education, to eke out their own earnings. Employers were interested to maintain a large market of cheap labor.

The experience of England in government interference with child labor had given examples of such legislation without ulterior harm. The laws affected the plane of competition throughout the state. The less fully supplied labor market attracted immigration of other labor, and led to the betterment of machinery, child laborers could not be driven elsewhere, being bound to their homes. Justice to the child, and the future good of the community demanded such interference.

The regulations passed were fairly clear in their application, and attempted to control but four points: (1) age, (2) schooling, (3) hours of labor, (4) kinds of labor. These remain to-day practically the only subjects of the child-labor laws. They were from the first commendable, since they struck at once at the root of the evil.

We may pass at once, therefore, to a consideration of the enforcement of these requirements. Opposition, as above indicated, appeared even before the passage of the original bills.

Given such opposed interests, it would seem as if ordinary common sense or practical business knowledge would have led men to expect attempts at evasion. False statements would, of course, be offered. Therefore, they ought to have been guarded against by some means of proof of statement and penalty for untruth. No such guard, however, was provided. Even the original use of a school certificate was to protect the employer, since no guarantee of its reliability was required.

Again, ordinary experience would have seemed entirely adequate to convince any one that "willfulness" of violation would be almost impossible to prove, and "knowing" violation nearly as difficult. It would certainly have been more sensible, and more within the understanding of all, if some

definite criteria, by which to judge or justify actions, had been originally given.

It was another obvious misstep to leave enforcement in the hands of truant officers and city officials, and expect its accomplishment. English experience was ample to furnish warning here. The only possible excuse for such negligence would be lack of funds to meet the expense of additional policing, but this ought certainly to have been considered when the proposition of law was first brought forward. It could hardly have been seriously believed that a mere threat would be enough to check the evil.

Beyond this, those who were charged with the duties of inspection and enforcement were not given the powers most obviously necessary to the work; they were entirely thwarted by a simple refusal of admission.

It is not here contended that a perfect working law was to be expected from the time of the first enactment. Refinements could, of course, only come through careful study of the practical operation of such legislation. It is, however, insisted that such obvious weaknesses, as those noted above, should never have been left totally unguarded, by men of common sense, in any serious attempt to grapple with the problem presented.

As the law stands to-day, after its tedious history of halting advances, it must be granted that it is wholly praiseworthy. Its practical enforcement and its obvious action for good are its greatest recommendations.

It has been argued that the early child labor laws were not enacted with any idea of strict enforcement. If in 1866 or 1867 it was time to interfere at all to stop the evil of child labor, it was time to stop it entirely. If the law was regarded solely and simply as a political measure, it is no longer to be judged as law. The use of law as a tool of party policy can find absolutely no ground either of economic or ethical justification.

Hours of Labor.—The ten-hour law of 1874 was the out-

come of a long and bitter struggle. Restriction was asked only in favor of women and minors. The evils complained of as the results of long hours were overwork and ill health among these operatives; also that laborers were cut off from all social life.

In the case of this law, some care was given to an investigation of allegations and to a forecast of the probable results of legislation. The method was scientific, even if the discussion was not scholarly.

Ill health was not sufficiently proven, but the fatiguing effect of long hours was made evident. The argument of social benefit outweighed the fear of harm. Claims of increased efficiency in the operative were offset by proof of the burden upon production. The balance of opinion favored the law.

It was decidedly likely that such shortening of hours would have come in time through an improvement in processes of production and the demands of organized labor. In certain branches of industry such results had already been accomplished (as in the building trades). However, where the need was greatest, the likelihood of natural remedy was most remote. The textile industry, for example, was latest to reduce hours, and there many women and children were employed.

It is to be noted also, that Massachusetts was in a condition of prosperity which warranted the trial of an uncertain experiment. This was not, of course, a reason made prominent in the discussion, but it must, nevertheless, have been an influence felt in the result.

The details of this law have been a problem to the wisest. The original statement would appear both clear and exact, yet it met decided rebuff. We notice at once the reappearance of the word "willfully," which had been seen already to nullify the intent of the child-labor law of 1867. If, therefore, we criticised the folly of allowing it in that measure, we are warranted in condemning the obstinacy which, with open eyes, inserted it here.

A difficulty which arose in connection with another clause could hardly have been foreseen, and is not easy to remedy. In justice to the manufacturer, the statute permitted overtime work to make good loss of stoppage for repairs in a previous day of the same week. But this allowed exception has been used as defence in cases of flagrant abuse. It was thought that the balance would be kept by the limitation upon the total number of working hours per week. This imposed, however, an impossible task upon inspectors, who were compelled, in the absence of the operatives' testimony, to watch a given case for a whole week continuously to prove any overstepping of law. A check has now been entered in the requirement that overtime shall only be allowed when stoppage has exceeded thirty minutes and been duly reported in writing to the chief of district police or the inspector.

Again, unreasonable time was given to the starting and stopping of machinery. An inadequate amendment was passed requiring notice of the time thus allowed to be posted with the general statement of hours, with the sole result that legal recognition was given to the abuse which it was sought to stop. It is well that the wording has since been more skillfully corrected to a required statement of the hour of starting and stopping work.

The reticence of employees and their aversion to giving testimony nevertheless continues, and doubtless will long continue to be a stumbling-block to the enforcement of the act.

The character of this law as a constitutional measure and legal precedent has been adversely criticised. In other states Supreme Court decisions have been rendered against similar measures.[1] They are considered opposed to the principle of "free contract," the liberty of the individual, etc. The reality of the "freedom" here interfered with would in many cases, however, be a question open for dis-

[1] California Supreme Court, 1895, 39 Pacific Reporter, 329. Illinois Supreme Court, 1895, 40 Northeastern Reporter, 454. Nebraska Supreme Court, 1894, 41 Nebraska, 127.

cussion. In Massachusetts the act was sustained upon the ground of the state's "police authority," and as applying to women and children, considered wards of the state (120 Mass. 383).

In that instance police authority certainly received support from the prevailing ill condition of woman and child labor. It could not perhaps, so confidently, be offered in defence of further restriction. We must note, therefore, the danger of the precedent here given. Since the enactment by the legislature of statutes which reduced working hours from sixty per week to fifty-eight per week has been adjudged to be within its constitutional powers, can it not constitutionally continue to exercise such power in further restrictive laws? Is it not to be expected that other measures for curtailment of hours will lay claim to constitutionality upon the ground of the likeness of the restraint called for, and pass unchallenged for the necessary proof of a like justification in an evil under police control? The legislature as well as "public opinion is in the highest degree indiscriminating."

Safety and Sanitation.—The original principle of personal freedom, and non-interference upon the part of government, would seem to apply in the case of the employer's personal interest in the sanitary and safe condition of the workrooms; in the employee's ability to look out for himself in the neighborhood of dangerous machinery, and his right to run such personal risk as he thinks fit. An immense body of evidence is, notwithstanding, brought forth to prove the disregard or neglect of employers in matters pertaining to health and safety in their shops, and also the carelessness of danger upon the part of workers there employed. In face of such facts, therefore, the weighty economic and ethical consideration of the value of human life must dispel scruples under the first stated principle. This must also brush aside the inconsiderable objection that such protection tends to foster recklessness in the operative.

The necessity of these legal regulations is their universally accepted justification.

The duty of enforcement of these laws, given into the hand of inspectors, carries large discretionary powers in the decision of what is "adequate" provision. Especially, in cases where appliances not contemplated in the ordinary law, are offered, very careful judgment is called for. Such power is, however, wisely guarded and placed in fairly trustworthy keeping by the civil-service examination put upon those entering the department.

Under this head, it is quite true that regulation tends continually to run more and more into minuteness; but again exception must be allowed to the general principle. They tend to make distinctions clearer and requirements more definite, and have proved a practical aid and no hindrance to enforcement.

These have been the least questioned of Massachusetts laws bearing upon conditions of labor. Their enforcement to-day is strict, receiving also the co-operative support of the employer's liability act, which tends to make the guarding of unsafe machinery appear the more desirable to the manufacturer.

Employer's Liability.—The law holds a sane man responsible for his own actions; if he employs another to act for him, he is held responsible also for such agent or servant. This is the theory which underlies the right at common law of a man to recover damages for injuries sustained through the fault of another.

Extended to industrial relations of employer and employed, however, the principle becomes modified in the common law of the employer's liability. The master is held liable to an employee for the results of his own culpable negligence, but not for the negligence of a fellow worker, *i. e.*, one in the same employ but not superintending said operative.[1] Also in case of incidental accident he may

[1] W. D. Taylor, "Employers' Liability," p. 46.

exempt himself from all responsibility by shifting the weight of risk upon the worker in a special contract, or by giving him express warning of danger; while in any case contributory negligence, upon the part of the injured workman, is defence. Let an example illustrate:

In a railroad accident a mis-turned switch sends a passenger train into collision with side-tracked freight cars which are being unloaded. Two men are injured, one, the drayman of an express company, falls under the wheels of the freight car as the shock drives it forward, and loses his leg in consequence; the other, a brakeman, is thrown from a passenger car platform, severely fracturing his skull. The cases are alike in that there is no contributory negligence on the part of those injured. The drayman being unconnected with the railroad could recover full damages for his leg, but the brakeman, though incapacitated for work for the rest of his life, was fellow employee with the careless switchman and could not bring action against the company.

The original justification of the distinction was that fellow workers were known to each other and each was aware of the degree of carelessness or responsibility to be expected of the other, and therefore, of the risk incurred. With men working at the same bench or anvil, this might be true enough, but as applied broadly to our great modern industries it no longer agrees with the facts. The brakeman on an express passenger train between Boston and New York cannot know the capabilities of way switchmen, nor can the factory operative know the trustworthiness of the engineer.

Lord Holt in England, early judged the master liable for the negligence of his servant. Lord Abinger's decision in 1837,[1] brought in the above doctrine of common employment and was an exception later followed by Massachusetts for reasons of "public policy," in Judge Shaw's decision in

[1] Prestey *v.* Fowler, 3 M. & W. I—(Mason & Wellsby), Eng.

the Farwell *v.* Boston & Worcester Railroad case.[1] It has, therefore,, since formed part of the body of law of that State.[2]

This common law was for years, both in England and America, the only agency through which an employee could recover damages for injury. The strong defences therein given to employers made it but an ineffectual remedy.

During the nine years ending in 1881, the *Railroad Gazette* chronicled in train accidents alone 1,266 killed and 1,478 injured in Massachusetts. Of these more than one-quarter of the deaths and nearly one-half of the injuries were among employees. In 1881, upon railroads alone, 72 employees were killed and 128 injured.[3] Reports of these accidents—except in cases where death resulted—were not entirely reliable, at that date, and there were no returns of accident in mechanical industries.[4] It was estimated that in less than 10 per cent of the cases of death and injury, just quoted, were any damages recovered; although at least half of these accidents were due to causes beyond the control of those who suffered from them.[5]

In England, under the Common Law, during four years not a single instance of recovery of damages by an employee came to the knowledge of any of the officers of the Society of Railway Servants; although during the four years, from 1872 to 1875 inclusive, according to the report of the Royal Commission, 238 were killed and 172 injured, from causes beyond their own control.[6]

These cases were in marked contrast with those of other individuals who, in all else, stood upon equal rights of citizenship before the state. The question, therefore, naturally arose: Why should there be such arbitrary distinction between man and man? Why should this guard on life be

[1] 4 Met. 49 (Mass.).
[2] Report of the Mass. Bureau of Statistics of Labor, 1883.
[3] *Ibid.*, p. 3.
[4] *Ibid.*, pp. 72–73; 95.
[5] *Ibid.*, p. 94.
[6] *Ibid.*, p. 95.

given in one case and omitted in another? Why should the individual be held for damages; the industrial body freed of responsibility? Remedy lay alone in a remodeling of the law.

Urged by continued complaint, England at last passed the Employers' Liability Act of 1880, "to extend and regulate the liability of employers to make compensation for personal injuries suffered by workmen in their service." Although the threat of this legislation had aroused the apprehensions of employers, and there was much discussion and bitter opposition, the law itself appears to have had no serious effect in increased recovery of damages. The Massachusetts Bureau of Statistics, making report on this subject as ground for legislative action in Massachusetts, called it "a sham reform." [1]

It may, therefore, be of interest to make brief comparison of the later Massachusetts Law (1887, c. 270) with this English forerunner and example.

The English act provided in brief:

Sections 1 and 2. Common employment shall not be a defence where a workman receives injury:

1. By reason of any defect in the ways, works, machinery or plant connected with or used in the business of the employer, which defect existed in consequence of the negligence of the employer, or of an employee by him entrusted with the duty of guarding against any defect.

2. By reason of the negligence of any person entrusted with superintendence.

3. By reason of the negligence of any superior workman whose orders the person injured was bound to obey.

4. By reason of obeying proper rules or by-laws, or any rule or by-law approved by certain public officers therein specified.

5. By reason of the negligence, on a railway, of any person at the time in control of the train.

[1] Report of Massachusetts Bureau of Statistics of Labor, 1883, p. 127.

Unless the person injured knew, or failed, when necessary, to give notice of the defect which caused the injury.

Section 3 limits the sum recoverable as compensation.

Section 4 limits the time for recovery of compensation.

Section 5 makes any penalty received by any other act part payment.

Sections 6-10 trial—definitions, etc.[1]

The Massachusetts act provides:

If an employee—himself "exercising due care and diligence"—is injured:

1. By machinery, etc., defective through the negligence of the employer or his servant appointed to keep it in repair; while the employee was ignorant of the defect, or had given warning of its presence.

2. Through negligence of one exercising superintendence.

3. Through the negligence of one "in charge or control of any signal, switch, locomotive engine or train upon a railroad," the employee or his legal representative "shall have the same right of compensation and remedies against the employer as if he had not been an employee."

Section 2 provides for recovery by dependent relatives in case of death.

Section 3 states the maximum compensation and provides deductions in cases where the employer has contributed to a benefit fund.

The similarity of these acts amounts to identity in important details. Employers remain under the same Common Law duties, but these acts add new liabilities and remedies. There is no guarantee in the wording of the law against accident through hidden defects in machinery. Contributory negligence remains, and workers of the same grade —neither in position to command the action of the other— stand as before. Both statutes indulge in general terms upon which cases may easily turn. Although in other law

[1] Report of Massachusetts Bureau of Statistics of Labor, 1883, p. 52.

no limit is put upon the amount of damages recoverable, here such maximum amount is stated. Possibly this is due to the influence of the old doctrine that the right of action died with the person, a doctrine broadened by Lord Campbell who continued that right to relatives under a limitation in the amount of damages recoverable.

An important difference between the English and American law is in respect to contract. Both acts correct the inference of implied contract, but in England express contract could be drawn to exempt the employer from actions under this law, and at the first passage of the act this was at once his resort. In Massachusetts, on the contrary, such contracts do not hold (1877, c. 101; 1894, c. 508).

Much more discussion has been wasted upon the theoretical argument for, or against, these laws, than upon the question of their practical benefit.

We have the situation of a Common Law protecting rights of a stranger to recover damages of another, whether inflicted through the carelessness of that man's servant, or through the unsafe condition of his machine. Such liability is justified by the legal doctrine of *"respondeat superior,"* a survival of the earlier system which gave the master of slaves, as of children, the postition of authority and responsibility of the *"pater familias."* Since, however, slaves had no civic rights, the master did as he pleased concerning injury inflicted by one upon the other. Conservative law stands almost at this stage to-day.

But the progress of civilization has eliminated the slave. The operative in personal rights is considered the equal of any other man. If we would be consistent, therefore, in our law, we must either usher into practice the doctrine that a man is answerable only for his own personal fault of negligence, or else that he is equally responsible to employee and stranger in cases where the contributory negligence of the employee has not materially affected the result.

For generations the law of liability to strangers has proved

of practical benefit to the community; it places the responsibility upon those who hold the corresponding power. It is not likely that so old and valuable an institution will be swept away for any whim of theory. Indeed the theory of the responsibility of power is fast growing to support it. Therefore the law to-day tends rather to the other alternative of extending the provision to cover stranger and employee alike.

In this connection it will be most interesting to watch the history of the new English law—the Workmen's Compensation Act of 1897.

In spite of faults, we cannot but consider that the Employer's Liability Act of Massachusetts is a law of some value. Even her apparent leisureliness of motion should be allowed good policy in that too sudden change might involve serious disturbance in the readjustment of industrial interests.

Wage Payments.—In dealing with wages, the legislator enters upon a distinctly economic field. In olden days this was a favorite subject of law, and we find regulation of wages when other conditions of labor were entirely untrammeled. To-day better knowledge of the economic necessity which governs those rates—annulling attempted legislative interference—has taught the state to leave such determination to the natural action of competition, of supply and demand.

Upon what ground, then, has government attempted regulation of *periods of payment,* and especially where is the excuse for acts against *fines* which, in a given case, touch directly the *amount* of an operative's wage?

The ground is the right which the "police power" gives the state to interfere to check abuse. General rates of wages must be left to market determination, but within that market the individual seeking employment is, in many cases, forced to acquiesce in a contract disadvantageous to himself, where the employer holds a position to dictate. Often in cases of

"truck payment" employers have gained unwarranted control over workers, with such detrimental reaction upon their standards of living that the evil justified acts of police protection.

In Massachusetts weekly payments are cited as a parallel case of legal interference and should be supported by the same argument. In face of the facts, however, it is impossible to maintain the plea of actual injury. We have found evidence that such payments result in benefits to the household economy of workers, and, therefore, may logically encourage efforts of employees to secure it, or the labor union's struggle for it. But as the situation stands, it seems hardly dignified for government to interfere in the question at all. It offers but another encouragement to undue reliance on paternal government to let a central authority supply the lack of self-dependent effort on the part of organized labor.

The act may even appear seriously questionable from the standpoint of constitutional law. Does it not oppose "free contract," "exceed police powers" and apply to but a single class of the community?

It cannot even be argued that it puts bargainers upon equal footing. It does not say: "A shall not bully B," but instead "A shall do in full as B has demanded." There is not even the sign of compromise at fortnightly payments.

Here, then, is state action not to determine the "plane of competition," and not putting worker and employer on an even footing in their business negotiation. It has not been claimed in discussion of the subject that monthly payment is an invasion to lower the standard of living of the community. We cannot, therefore, clearly see either practical or theoretical argument for government interference in this case. As a matter of fact this law has not yet worked out its own enforcement. In itself it seems rather a harmless measure, except as it may stand as precedent for more serious future indiscretions.

It is here noteworthy that in Massachusetts the system of "truck payments," which existed to but small extent, was never so abused as to raise complaint, or demand legislation. Massachusetts has no "Truck Act," but her laws command weekly wage payments.

What of the fine prohibitory law? Fines are to-day the chief and most effective means of discipline in the factory. They are imposed both for tardiness and bad workmanship. It is the opinion of inspectors that they are the means of the greatest abuse now to be found in factory life. On the other hand, employers declare that the statements concerning cases of abusive fine greatly exaggerate the evil. A moderate use of fines must be allowed just, in that it would be unreasonable to expect an employer to give equal pay for good and bad work alike, and also suffer the loss in materials due to workers' blunders. It is said that such damaged work goes to market and is sold just the same, but that is not quite the fact. The manufacturer has the reputation of his goods to guard, and when such imperfect work is sold, it must be sold as imperfect and at less price, often not such as to cover the entire cost. [1]

In protecting the worker from the unjust exaction of an employer, the border line should not be crossed on the other side. Total prohibition of fines leaves the employer at the mercy of unskilled employees. His only resort must be prompt dismissal. This has, indeed, been the practical effect of all of this ill-considered legislation. It has, therefore, worked hardships upon employees greater than that connected with the fines complained of.

Although abusive fines are often to be found in mercantile establishments, legislation has confined its efforts to fines upon weavers in textile mills alone. If the abuse can be proved serious enough to justify this interference at all, the government has certainly done well in its deliberate ex-

[1] "Fines exacted never even approximate an equivalent for loss."—Bulletin of Wool Manufacturers, January, 1891, p. 115.

perimentation with ways and means, to confine its attention to a given industry, where the effect of enactment may be a visible guide for any further action contemplated.

The policy of treatment has already been most vacillating. First came restriction of amount of fines, of cases finable, of method of levying fines (1887, c. 361). Then all fines were prohibited (1891, c. 125). Then "grading" for imperfections in work was allowed as agreed to by both parties.[1] In 1898 a bill was again presented to the legislature for total prohibition, but in face of the court's decision, which had pronounced a similar predecessor unconstitutional, it, of course, was defeated.

A serious investigation and study of the situation would seem imperative before further inconsistencies are perpetrated.

General Criticism.—One of the points which our review has most prominently forced upon our attention, is the way in which a Massachusetts legislature decides the question of evil and degree of evil. In every case it has been the shout of the complainers that first attracted attention; it has been the persistency and strength of outcry that secured the action for relief.

Studnitz, in his study of American labor, summed up the situation in the statement that American legislation has been determined by the political and social strength of the laborers demanding it, rather than in accordance with the natural needs and varied conditions of industry within the states.[2]

We have, in consequence, found cases of entirely inadequate investigation and study of the conditions to be remedied, of the necessity and probable results of legislative interference, or of the experience of other places in like cases.

Faulty construction of some early laws, where ordinary common sense would have seemed sufficient to guard against

[1] 1892, c. 410.
[2] Studnitz—*Nordamerikanische Arbeiterverhältnisse*, p. 426.

such error, vitiated enforcement and threw discredit upon the governing power. There has been frequent complaint that "upon the one hand he who wants it places his law upon the statute-book, and on the other hand he who does not desire it commits almost unmolested the acts forbidden by it." [1] It gave ground for the shameful charge that these laws were only political measures. Howbeit, it is but fair that we hasten to say that legislation to-day has well outlived such serious faults.

The demands of labor still direct the course of legislation, but there is room to argue that this is a virtue rather than a fault. Labor has not thus far grievously mistaken its own needs. To-day, also, the question once presented, a qualified bureau stands ready to make careful study of the claim. Only when such measures as the weekly payment and fine laws are entered upon the statute-book, do we find occasion now to question Massachusetts' labor policy.

Others, indeed, have criticised, from this standpoint, her present short-hour legislation. If, however, Massachusetts goes no further,—at least until surrounding states have taken corresponding position,—there seems no good ground for serious objection. The law doubtless operated to hasten Massachusetts' industry into the stage where sixty hours, or even fifty-eight hours a week could be profitably given. Complaint to-day comes chiefly from the cotton mills.

That the Massachusetts cotton industry is, as concerns labor, at a disadvantage in its Southern competition, is indisputable. The first expedient was a reduction of wages; [2] the second would be lengthened hours. [3] If then the situation assumes such consequence, why should not taxes also be reduced? Let the process continue.

[1] Adams, Jr., Labor Question, North American Review, January, 1872.

[2] Cut of ten per cent in textiles, Jan., 1898. Wages now rising with generally increasing prosperity must still face the menace of southern competition, which reacts upon them whenever there is any stringency in the market.

[3] Note the prevailing tenor of discussions of the situation.—Arkwright Club and Bulletin of Wool Manufacturing.

In a most exhaustive treatise upon the question of international labor legislation, Dr. Adler [1] studies the ever-increasing competition between European countries. He shows how each in turn—England with high protection of labor; France with less; Belgium almost unrestricted—has felt the tightening grasp. They approach the same limit. The English operative stands to-day in a position of respect among his fellows, while the condition of his Belgian neighbor elicits only pity.

Why should Massachusetts retract her laws? The same conditions must be faced again. Is it for her, thus far an example, to pattern her future to match the labor conditions in Alabama? This would mean double retrograde, absolute reduction of past standards in Massachusetts, and the margin for advance cut off from Southern labor.

In other states a number of the labor laws brought to trial before high courts have been swept away upon a verdict of unconstitutionality, in that they "contravene freedom of contract," are "class legislation," and so forth.

"There is not in the Constitution of Massachusetts, anything which in terms relates to the freedom or liberty of contract, as, for instance, there is concerning the liberty of the press. . . . In early times, after Massachusetts became an independent state and before the adoption of the Constitution, the General Court passed laws regulating minutely the prices of commodities and in certain respects the prices of labor. See Prov. Sts. 1776-77, cc. 14, 46; 5 Prov. Laws (State Ed.) 583, 642. And there has never been at any time in Massachusetts an absolute right in its inhabitants to make all such contracts as they pleased." [2]

The Constitution, indeed, especially states (c. 1, Sec. 2, Art. 4) "full power and authority are hereby given and granted to the said General Court from time to time to make . . . . all manner of wholesome and reasonable orders,

[1] Adler, G.—*Die Frage des international Arbeiterschutzes.*
[2] 163 Massachusetts, 591.

laws, statutes, etc., ... as they shall judge to be for the good and welfare of this Commonwealth, and for the subjects of the same."

Upon one important issue Massachusetts courts have already passed a sustaining verdict; the present limitation of the hours of labor is constitutional (St. 1874, c. 221); "it violates no contract of the Commonwealth implied in the granting of a charter to a manufacturing company; it violates no right reserved under the Constitution to any individual citizen, and may be maintained as a health or police regulation. A law which merely prohibits a woman from being employed in any manufacturing establishment more than a certain number of hours per day or week, does not violate her right to labor as many hours per day or week as she may see fit, and is within the power of the Legislature to enact." [1]

At the time when the bill for the extension of the act concerning weekly payment was before the Legislature, the Justices returned as a reply to the House of Representatives: "We cannot say that a statute requiring manufacturers to pay the wages of their employees weekly was not one which the General Court had the constitutional power to pass, if it deemd it expedient so to do." [2] It seems unlikely that any others of her existing labor laws will be brought to this test. They have been generally beneficial to public interests. They have been pretty cheerfully accepted and obeyed. They have gained the strong approval of the community in general. They have the political support of a large labor party. Probably such an attack could only be precipitated by the ill-advised enactment of further laws absolutely and sufficiently injurious to the conomic interests of the Commonwealth to force the step as a measure of self-defence.

In other connections we have already noted minor weaknesses in the forms of certain laws, ambiguity of expres-

[1] Commonwealth *v.* Hamilton Manufacturing Company, 120 Mass. 383.
[2] 163 Mass. 589.

sions, carelessness of construction or other technical failing. The unnecessary slowness, also, of the process of correcting such shortcomings cannot have failed to be remarked. Excuselessly ineffective child-labor laws trailed one after another for over forty years. In 1870 the new Bureau of Labor reported critically upon existing law, pointing out its flaws and recommending provisions, which, if they had been enacted, must have struck at once at the fundamental difficulties. This, however, passed without notice, and when the subject was again dealt with six years later, the statute reflects little benefit from the painstaking study which had been given its predecessor. How often the same thing has happened throughout our country! Our legislatures appoint committees, bureaus and commissions to investigate and report, and then, in characteristically independent fashion, pursue their own course without reference to them. The ten-hour law stood five years upon the statute books before constant complaints at last drew active attention to the obstructive clause which made "wilful violation" alone punishable. Indeed, illustrations may be drawn from every division of these laws.

It has been a generally wise precaution,—perhaps simply a natural growth,—that original measures were almost always confined in scope to special regulations which applied in a comparatively narrow field and were extended only after trial and approval. Laws pertaining to child labor, hours of labor, safety and sanitation, all served their apprenticeship, so to speak, in manufactures, before they passed on to mechanical, mercantile and other establishments. The experiment in weekly wage payment was first confined to cities and towns, while interference in the matter of fines has been directed only against those imposed upon weavers.

Recognition by statute (1888, c. 134) of the right of labor to organize and become incorporated for lawful objects, only conceded to the operative an equality with other citizens of the community in these rights earlier secured to them.

The constitution of the Board of Arbitration in Massachusetts "lends official dignity to the all-important principle of peaceful negotiation," and "removes the last excuse for gratuitous resort to industrial warfare by employer or employee." [1]

Self-restraint is also a becoming virtue in a State Legislature, and Massachusetts has shown this in an eminently noteworthy case. In spite of widespread discussions and free enactments in other parts of this country, Massachusetts has never legislated upon the subject of labor conspiracy. In this field she has made the Common Law her wise dependence, nor risked the danger of narrowing its application by statutory enactment. The crippled action of the law in less far-sighted states has amply justified her policy.

[1] Cummings, E.—Industrial Arbitration, Quarterly Journal of Economics, July, 1895, p. 363.

CHAPTER V.

SUMMARY AND CONCLUSION.

"The state," Jevons said, "is the least of the powers that govern us." It is controlled by laws above its own dictation and its wisdom is to be taught and guided by them. Theirs is, however, a school of experimental science, whose text-book can only be written after long and patient observation and note-taking in the laboratory. In these pages of our laboratory note-book we have been studying the process of an important economic experiment, the most logical and complete yet tried in the field of labor legislation in America. Let us, then, assemble into a brief outline statement the conclusions that may be warranted by our observations.

We have reviewed the history of Massachusetts labor legislation, the laws that were enacted, the conditions which called for them and the forces which brought them to passage. We have watched their enforcement, and, as far as possible, traced their effects, economic and other than economic. We have thrown into concise statement the generally accepted theory of the position of government in reference to the problems of industrial labor, and upon this study as basis, essayed a critical examination of this body of legislation.

Massachusetts labor legislation has:

1. Withdrawn much child labor from factory and workshop.

2. Given a general guarantee of education to working youths.

3. Granted added leisure to the great body of workers, which means the opportunity to advance their standards of living.

4. Lessened casualties by protecting dangerous machinery, requiring escape-ways from fire, etc.

5. Insisted upon cleanliness and generally good sanitary conditions in workrooms, with a perceptible influence upon the health and homes of operatives.

6. Somewhat extended the Common Law of the employer's liability to an employee for bodily injuries sustained in service, making more adequate provisions for recovery of damages.

7. Recognized the rights of labor under the labor contract and as an incorporated body.

8. Accorded some workers the privilege of weekly payments, fine exemptions, etc.

9. Established a Board of Arbitration to which labor disputes may be referred for amicable settlement.

10. Established a Bureau of Labor whose duty it is to collect statistics, and to investigate labor conditions throughout the state.

11. Evolved the most efficient inspecting force in the United States.

This is a large accomplishment of good, but, in our appreciation of present measures of success, we must not overlook the lessons of the wayside difficulties nor underestimate the costs. Other states which are struggling with like industrial evils may find store of helpfully practical suggestion in this experience of Massachusetts. The obstacles which have arisen to each enactment in Massachusetts are generally typical of what is likely to confront similar enactments in other states. In early laws more particularly, technicalities of weak construction told against enforcement, and these have been severally pointed out as they occurred. Again, if

Massachusetts' experience teaches anything, it must show the absolute necessity of efficient inspection. The whole history of the labor legislative movement shows that laws, however good, cannot enforce themselves. It may appear to an outsider that it is for the laborer's own interest to report violations and seek the legal remedy given, but the indisputable fact is that he does not do it. Moreover, not only is the single laborer usually not in a position to do so safely, but even the labor union shrinks from the task.

The experience of Massachusetts may also stand as a warning in certain specific cases where, in too rash enactment, though against evident evil or to secure probable benefits, she did not approach the work forearmed by adequate study of the conditions to be met.

Let this suffice to indicate the most essential points, if not the detail of our study. Similar investigations pursued in other states would give interesting and profitable material for comparisons and practical deductions. Indeed, a chief object of this brief work would be realized if it could but suggest the opportunities and resources which invite to serious study in this field.

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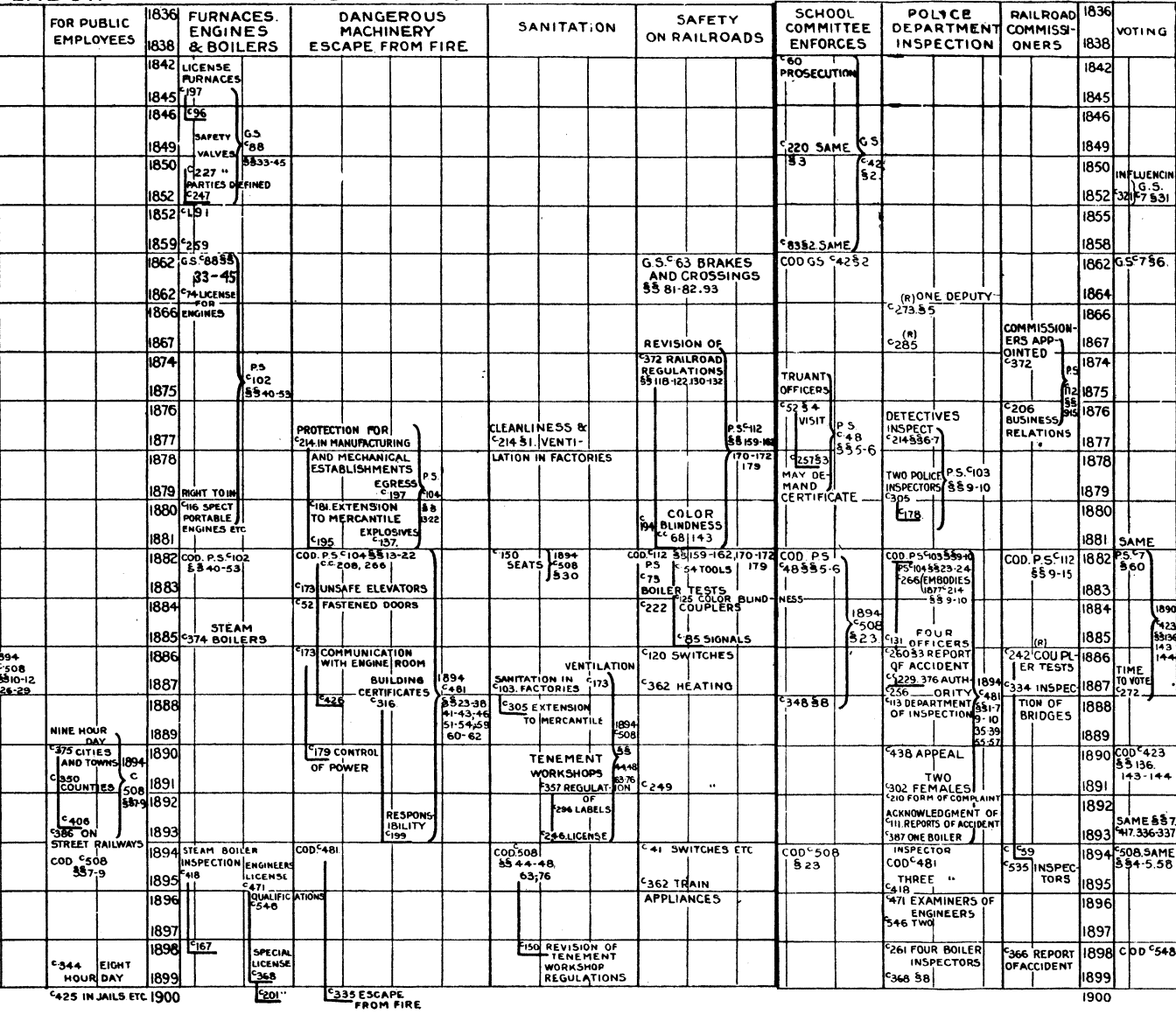

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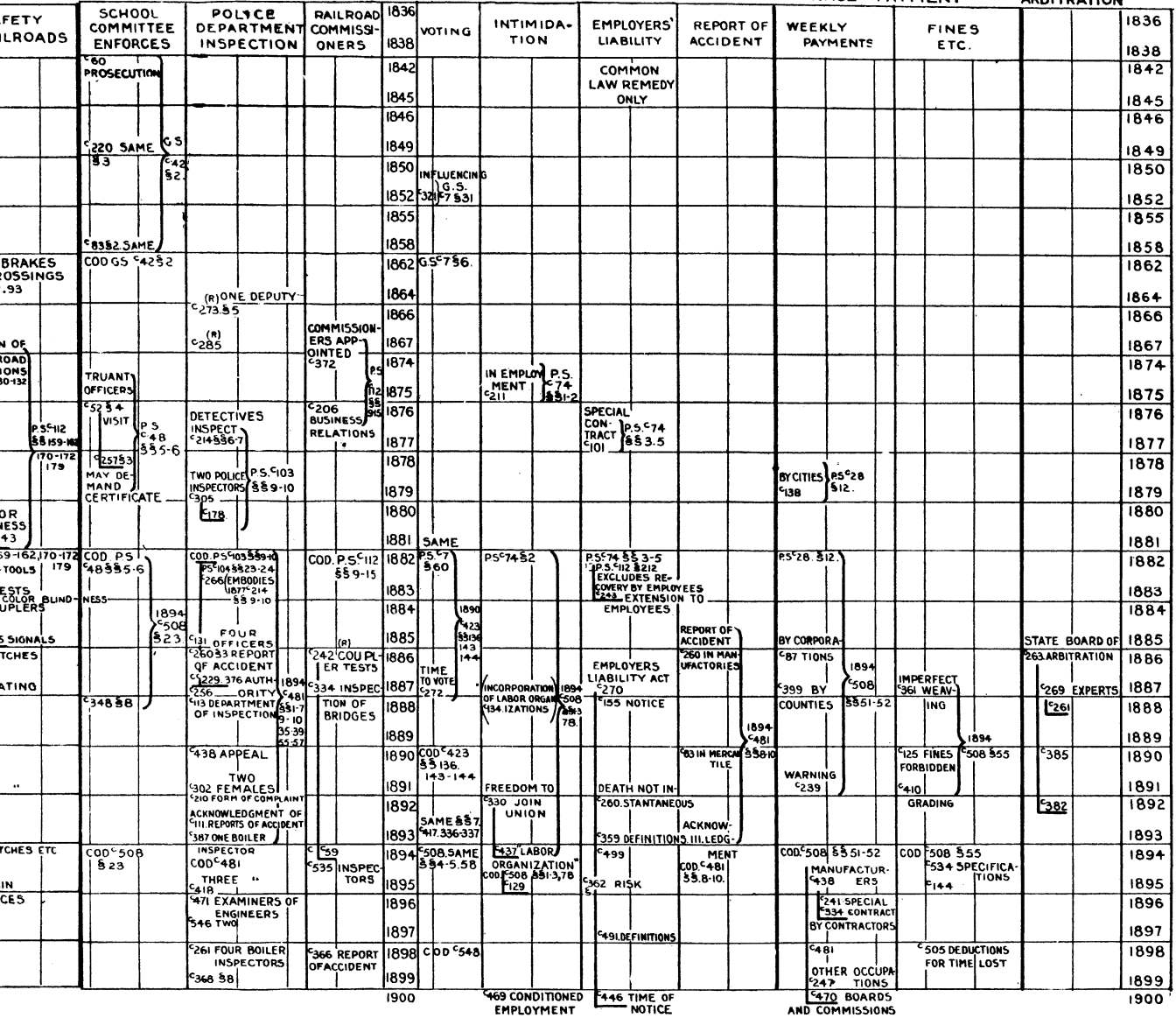

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COD., CODIFICATION
(R), REPEALED

DIGEST OF THE LABOR LAWS OF MASSACHUSETTS AND OF SUPREME COURT CASES DECIDED UNDER THEM.[1]

I. REGULATION OF CHILD LABOR.

1. AGE AND EDUCATION.

R. S. The law of apprenticeship is the only child-labor law.

1836, c. 245, § 1.—Children between twelve and fifteen years of age in manufactories shall attend school three months in each year. § 2. Employment in violation finable, $50.

1838, c. 107.—Amends 1836, c. 245, by adding that a certificate of school attendance releases the employer.

1849, c. 220.—Amends 1836, c. 245, by substituting eleven weeks' schooling, under qualified teachers, during the twelve months preceding and in each twelve months of employment, when the child has been a resident of the state for six months. Repeals 1836, c. 245, § 2. Penalty—Fine of $50, recoverable by indictment; shall be payable into the common school fund.

1855, c. 379.—Amends 1849, c. 220, and repeals inconsistencies by defining "teacher" as a "teacher approved by the school committee," and by striking out "of the twelve months next," thus leaving the preparatory school requirement "eleven weeks preceding the time of employment."

1858, c. 83.—Repeals inconsistencies. The annual school attendance shall be eighteen weeks.

G. S., c. 42, §§ *1-2.*—Codifies 1836, c. 245; 1842, c. 60; 1849, c. 220; 1855, c. 379; 1858, c. 83. Omits 1838, c. 107; 1855, c. 379. § 1. School attendance. § 2. Penalty.

(See Hours of Labor.)

1866, c. 273.—Repeals inconsistencies: § 1. No child under ten years of age shall be employed in manufactories. Between the ages of ten and fourteen years, six months' schooling is required (in a school approved by the school committee) "during the year next preceding" and in each year of

[1] ABBREVIATIONS: R. S., Revised Statutes; G. S., General Statutes; P. S., Public Statutes.

Enforcement, see Inspection.

Definitions of terms, see St. 1887, c. 103-5.

employment. § 2. The "owner, agent or superintendent" "who knowingly employs" and the parent or guardian who allows such employment are liable to fine ($50).

(See Hours of Labor.)

1867, c. 285.—Repeals 1866, c. 273. The same, substituting three months as the schooling requirement for children between ten and *fifteen* years employed in manufacturing or mechanical establishments.

(See Hours of Labor.)

1876, c. 52.—Repeals inconsistencies: § 1. The same age limit,—the parent or guardian held responsible under penalty of $20 to $50, payable into the public school funds. § 2. Twenty weeks' schooling in each year is required for children under fourteen employed in manufacturing, mechanical, or mercantile establishments. A certificate from the school committee is required as evidence of compliance.

1878, c. 257.—Amends 1876, c. 52, by requiring certificates of age and birth to be kept on file where children under sixteen years of age are employed, and by restricting employment of those between the ages of ten and fourteen who cannot read and write to the times of public school vacation. Lack of certificate is deemed violation.

1880, c. 137.—Amends 1878, c. 257, § 1, by requiring certificates to be signed by a "member of the school committee" or "some one authorized by them,"—the form to be furnished by the secretary of the state board of education and approved by the attorney general.

P. S., c. 48, §§ 1-7.—Codifies 1876, c. 52; 1878, c. 257; 1880, c. 137. § 1. Age limit. Penalty. § 2. Under fourteen years of age. § 3. Certificates. § 4. Penalties. § 7. Illiterate children.

1883, c. 224.—Amends Public Statutes, c. 48, § 1, by forbidding the employment of a child under twelve years of age "during the *hours*" of public school session.

1885, c. 222.—Amends c. 48, § 7, Public Statutes, by substituting "*days*" of public school session instead of "*hours*."

1887, c. 433.—Repeals c. 48, § 7, Public Statutes. § 1. Children under fourteen years, "who cannot read and write English," shall be employed only during public school vacations. The "owner, superintendent, or overseer," and the "parent or guardian" are held under penalty ($20 to $50, payable into the school funds). § 2. Every person who "regularly employs" a minor of one year's residence, who cannot read, etc., and who does not regularly attend day or

evening school, is liable to fine of $50 to $100, payable into the evening school funds. § 3. The school committee may issue a special permit, for a fixed time, to a child whose labor is necessary. § 4. The school committee shall post two weeks' notice of the opening of each evening school term in three public places.

1889, c. 135.—Amends 1887, c. 433, § 2, by substituting instead of "regular attendance at day or evening school," "regular attendance at day school, or 70 per cent of the yearly sessions of the evening school."

1890, c. 48.—Amends 1887, c. 433, § 3, by providing that if the child is prevented by sickness or injury from attending evening school, the school committee shall issue the special labor permit only upon the presentation of a physician's certificate—the form to be furnished by the committee.

1891, c. 317.—Amends 1887, c. 433, by striking out "regularly employed," and by substituting "resides in" (Mass.) for the year's continuous residence qualification.

1888, c. 348.—Repeals c. 48, §§ 1–6, Public Statutes, 1883, c. 224; 1885, c. 222; 1887, c. 433, § 1, and inconsistencies. § 1. No child, under thirteen years, shall be employed in "factory, workshop, or mechanical establishment," "in any indoor work," during the hours of public school session (for wages or compensation to whomsoever payable); or "in any manner during such hours, unless during the year next preceding" he has attended school for twenty weeks. § 2. The employment (as designated § 1) of children under fourteen years—except during vacation—is conditioned upon the keeping on file of certificates and employment tickets,—such employment to cease upon the expiration of the certificate. The chief of district police, with the approval of the governor, may forbid the employment of such children in unhealthy occupations, and the employer must comply within one week after receiving written notice. § 3. School certificates and a list of all employees under sixteen years of age must be kept on file. § 4. The certificate shall be signed, only after the presentation of an employment ticket,—the form for each of these is given, (§ 5.) by the superintendent of schools, his agent or some authorized member of the school committee (not the prospective employer), who is given power to administer oath. § 6. The certificate of age must be signed by the father, mother or guardian. § 7. But no child, con-

tinuously a resident of the state since thirteen years of age, and not exempted by law, shall be given a certificate unless he has had the twenty weeks' schooling. Proof of age shall be a certificate of birth or baptism, testimony of the school census, or other satisfactory evidence. § 8. Violations are punishable by fine ($20 to $50), for signing a certificate falsely not more than $50, or thirty days' imprisonment or both. § 9. Definitions (see Sanitation, St. 1887, c. § 1035).

(See Hours of Labor.)

1889, c. 291.—Amends 1888, c. 348, § 7, by allowing ability to "read at sight and write legibly simple sentences in the English language," as substitute for the twenty weeks' schooling requirement in granting an age certificate to a child over thirteen years.

1890, c. 299.—§ 1. The age or school certificate shall belong to the child who draws it and must be returned upon discharge—§ 2—under penalty of $10 fine upon the corporation or employer who retains it.

1892, c. 352.—Amends 1888, c. 348, § 2, by substituting thirty weeks' schooling requirement,—provided that the school is in session for that period,—the time to be divisible into three terms of ten weeks each.

1894, c. 508, §§ 13–25, 62, 67, 69, 70, 78.—Codifies 1883, cc. 224 1885, c. 222; 1887, c. 433; 1888, c. 348, §§ 1–8; 1889, cc. 135, 291; 1890, cc. 48, 299; 1891, c. 317; 1892, c. 352. § 13. Under 13 years of age. §§ 14, 15. Under 14 years of age. §§ 16–22, 62, 69. Certificates. § 23. Inspection. §§ 24, 70. Illiterate minors. § 25. Special permits. §§ 67, 78. General penalties.

1898, c. 494.—Repeals 1894, c. 508, §§ 13, 14, 16–25, 67, 69, 70 and inconsistencies. § 1. (§§ 13, 14) The age limit is raised to fourteen years in factory, workshop and mercantile establishment. Such children shall not be employed in "any work performed for wages or other compensation" to whomsoever payable, during hours of public school session. (See Hours of Labor—Night Work.) § 2. (§ 16) The employment of minors under sixteen years of age is conditioned upon the keeping of age certificates on file and "accessible," and two complete lists of such minors, one on file and one conspicuously posted near the entrance of the building. The names of minors who cannot read, etc., must be kept on file and a dupli-

cate list sent to the superintendent of schools, or to the school committee. §§ 3-4. Certificates provided as before. § 5. An employment ticket (as above) is the prerequisite in drawing an age certificate. Duplicates of certificates issued must be kept on file (forms for both given as before). The "custodian" of the child may witness to his age. When evening school attendance is required the certificate remains in force only during regular attendance as "weekly endorsed by the teacher thereof." § 6. Penalties: Fine of $50 upon the employer, and of $5-$20 upon the parent or person controlling the child for each day's violation after notice from the inspector or truant officer. Failure to produce the certificate or lack of list is deemed violation. Fine for retaining a certificate, $10; for knowingly certifying to a false statement, $50. § 7. (§§ 24, 70) No minor *over* fourteen years who cannot read, etc., shall be employed unless a regular attendant at evening school (where such are maintained by the city). The superintendent or teacher may excuse absence for cause. When a doctor's certificate states the applicant to be physically unable to both work and study, a special work permit may be given for a fixed period.

2. OCCUPATIONS.

(a) *Peddling and Begging.*

G. S., c. 50, § 14.—The mayor and aldermen may be authorized to restrict or license sales by minors.

1864, c. 151, § 1.—Cities and towns may regulate sales by minors.

P. S., c. 68, § 2.—Codifies G. S., c. 50, § 14, and 1864, c. 151, § 1.

1887, c. 422.—Any person controlling, or using, a minor under fifteen years of age, who begs or peddles without license, where one is required by law, shall be liable to fine of $200 or six months' imprisonment.

1889, c. 229.—No street railway corporation shall allow any minor under ten years to enter a car to peddle. A fine of $50 is recoverable in action of tort, by any person, within three months. The corporation is liable for violation by any servant or agent.

1892, c. 331.—Repeals c. 68, § 2, Public Statutes: The mayor and aldermen may regulate, etc., the issue of licenses for peddling by minors, and any minor who violates shall be fined $10.

(b) *Shows, Circuses, etc.*

1874, c. 279.—Licenses shall not be granted for shows, etc., in which children under fifteen years are employed as gymnasts, etc.

1877, c. 172.—Any person who "employs, exhibits, sells, apprentices or gives" a child under fifteen years for "the vocation, occupation, service or purpose of dancing, playing on musical instruments, singing, rope or wire walking, or in riding or as gymnast, contortionist, or acrobat, in a circus, theatrical exhibition or public place, or who shall "cause, procure or encourage" to do so, is fined $200 or given six months in the county jail.

Proviso.—This shall not prevent education in music, or employment in church or chapel, or appearance in a school exhibition, concert or musical entertainment with the written permit of the mayor and aldermen or selectmen.

1880, c. 88.—No license shall be given for "theatrical exhibition" or "public show" where children under fifteen years, and "belonging to the public schools," take part, or "where, in the opinion of" the board of licensers, employment is corrupting to moral or physical health.

P. S., c. 48, §§ 8–9.—Codifies 1874, c. 279; 1877, c. 172; 1880, c. 88. § 8. Penalty for employing. § 9. License not to be granted.

1894, c. 508, §§ 49, 50, 64.—Embodies P. S., c. 48, §§ 8–9. § 49. Employment of children in shows, etc. § 64. Penalty. § 50. License.

1898, c. 394.—Amends 1894, c. 508, § 49, by forbidding the exhibition of these children in dancing "upon the stage," by allowing instruction in dancing, and by permitting such children to take part in "festivals."

(c) *Handling Dangerous Machinery.*

1887, c. 121.—Children under fifteen years of age must not clean any part of machinery which is in motion or dangerously near to machinery which is in motion. The owner, superintendent, or agent is held responsible under a fine of $50 to $100.

1890, c. 90.—Children under fifteen years of age must not have "care, custody, management or operation" of any elevator, nor under eighteen years, at a speed of over 200 feet per

minute. Any person, firm or corporation who employs, or permits to be employed, in violation is fined $25 to $100.

1894, c. 508, §§ 31, 32, 73, 74.—Codifies 1887, c. 121; 1890, c. 90. § 31. Cleaning dangerous machinery. § 73. Penalty. § 32. Operating elevators. § 74. Penalty.

II. HOURS OF LABOR OF WOMEN AND CHILDREN.

1. GENERAL.

[1]*1842, c. 60, §§ 3-4.*—Children under twelve years shall not be employed more than ten hours a day in manufactories,—the owner, agent or superintendent to be fined $50 for "knowingly" violating.

(See Age and Education.)

G. S., c. 42, § 3.—Embodies 1842, c. 60, §§ 3-4.

1866, c. 273, § 3.—No child under fourteen years shall be employed in any manufacturing establishment more than eight hours a day.

(See Age and Education.)

1867, c. 285, § 2; Repeals, 1866, c. 273.—No child under fifteen years shall be employed more than sixty hours in one week under penalty of $50 for "knowingly" violating.

(See Age and Education.)

[2]*1874, c. 221.*—§ 1. Hours of labor for women and minors in manufactories shall be ten per day except (1) to make good loss of time due to stoppage for repairs in a previous day of the same week, or (2) to give one shorter day. In no case shall the hours exceed sixty per week. § 2. The person, firm or corporation, superintendent, overseer or agent, and the parent or guardian are fined $50 for "willful" violation, upon prosecution within one year.

[1] A "corporation" is not liable to penalty as imposed by St. 1942, c. 60, § 3, on the "owner, agent or superintendent" of a manufacturing establishment, for employing children under the age of twelve years in laboring more than ten hours a day in such establishment. Benson *v.* Monson & Brimfield Manufacturing Co., 9 Met. 562.

[2] St. 1874, c. 221, violates no contract of the Commonwealth implied in the granting of a charter to a manufacturing company; and it violates no right reserved under the Constitution to any individual citizen. It may be maintained as a health or police regulation. A law, which merely prohibits a woman's being employed in any manufacturing establishment more than a certain number of hours per day or week, does not violate her right to labor as many hours per day or week as she sees fit, and is within the power of the Legislature to enact. Commonwealth *v.* Hamilton Manufacturing Co., 120 Mass. 383.

1879, c. 207.—Amends 1874, c. 221, by striking out the word "willful."

[1] *1880, c. 194.*—1 §. Amends 1874, c. 221, § 1, by requiring printed notice of the number of hours of work required in each day to be posted in workrooms where women and minors are employed. § 2. By adding that employment, "in any one day," beyond the hours so stated shall be deemed violation, except as allowed in St. 1874, c. 221. Also, by raising the penalty from $50 to $100.

P. S., c. 74, §§ 4-5.—Codifies 1874, c. 221; 1879, c. 207; 1880, c. 194. § 4. Hours of labor—60 per week. Postment of notice. § 5. Penalty.

1883, c. 157.—Amends c. 74, § 4, Public Statutes, by extending the ten-hour day to women and minors in "mechanical and mercantile establishments."

1884, c. 275.—Repeals c. 74, § 4, of Public Statutes. § 1. No minor shall be employed more than sixty hours per week in "any mercantile establishment." Notice of hours shall be conspicuously posted. Penalty of $50-$100 is placed upon the employer, corporation, parent, or guardian for violation. An age certificate, sworn to by the minor and guardian, shall be evidence of age.

1886, c. 90.—Amends c. 74, § 4, Public Statutes, by adding that the form for notices shall be furnished by the chief of the district police as approved by the attorney general, and shall require a statement of the time allowed to start and stop machinery and of the time given for meals.

1887, c. 280.—Amends c. 74, § 4, Public Statutes, and repeals 1886, c. 90: § 1. By allowing overtime employment (to make good loss during repairs, etc.) only when the stoppage has lasted more than thirty minutes, and after written report stating day, hour and duration has been sent to the chief of district police or the inspector. A fine ($50-$100) is imposed for false report. § 2 By requiring the notice to state "the hours of commencing and stopping work, hours when time for meals begins and ends, or if exempted (St. 1887, c. 215, § 3, see Meal Hours) the time, if any, allowed for meals"—the printed form to be furnished by the

[1] The St. 1874, c. 221, as amended St. 1880, c. 194, applies only to persons who are "permanently therein employed." Complaint against a manufacturing corporation for violation in employing a certain woman, without having posted a printed notice in a conspicuous place in the room in which she was employed, stating the number of hours' work required of such persons on each day of the week, is insufficient. Commonwealth *v.* Osborn Mill, 130 Mass. 33.

chief of district police and approved by the attorney general.

1892, c. 357.—Amends c. 74, § 4, Public Statutes, by reducing hours of labor to fifty-eight a week.

2. HOURS FOR MEALS.

1887, c. 215.—§ 1. In factories or workshops where five or more women and minors begin work at the same hour, meal time shall be given them later at the same hour without imposing additional work upon those who may work through such hour (directed against "doubling up"). § 2. Intervals shall be six hours of work to one-half hour for the meal, six and one-half hours when work ends at one o'clock, or seven and one-half hours (time for lunch being given) when work ends at two o'clock. §§ 3-4. Exceptions defined, and special certificates of exemption allowed to be given by the chief of district police with the approval of the governor. § 5. Whoever "for himself or as superintendent, overseer or other agent" violates is liable to fine ($50-$100), except when the operative violates against orders.

1887, c. 330.—Amends 1887, c. 215, § 5, by releasing the employer from responsibility when a woman or minor violates without the "order, consent or knowledge" of himself, the superintendent, overseer or agent,—notice forbidding labor during meal hours having been posted in the work rooms.

3. NIGHT WORK.

1888, c. 348.—§ 2. No child under fourteen years shall be employed in any manner between 7 p. m. and 6 a. m., under penalty of fine ($20-$50) payable to the public schools.

(See Age and Education.)

1890, c. 183.—No woman or minor shall be employed for the purpose of manufacturing between 10 p. m. and 6 a. m. by any corporation or manufacturing establishment under penalty of fine ($20-$50).

1892, c. 83.—Amends 1890, c. 183, by correcting parties held: "No person or corporation or officer or agent thereof shall employ," etc.

1894, c. 508, §§ 10-12, 26-29, 56, 59, 60, 61, 68, 71.—Codifies P. S., c. 74, §§ 4-5; 1883, c. 157; 1884, c. 275; 1886, c. 90; 1887, cc. 215, 280, 330; 1888, c. 348; 1890, c. 183; 1892, cc. 83, 357. § 10. Hours for minors in mercantile establishments.

§ 60. Penalty. § 61. Evidence. § 11. Hours for women and minors in manufacturing and mercantile establishments. Notices. § 56. Complaint. §§ 59-60. Penalty. § 12. Night work. § 68. Penalty. §§ 26-29. Meal hours. § 71. Penalty.

1900, c. 378.—Amends 1894, c. 508, § 10, by extending the fifty-eight-hour week to women and minors in mercantile establishments,—this law not to apply to retail shops during December.

III. HOURS OF LABOR OF EMPLOYEES OF THE COMMONWEALTH.

1890, c. 375.—Repeals inconsistencies. Nine hours shall constitute a day's work for all laborers, workmen and mechanics employed by or on behalf of the Commonwealth or any city or town therein.

1891, c. 350.—Amends 1890, c. 375, by extending it to like employees of counties.

1893, c. 406.—Nine hours of manual labor shall constitute a day's work under contracts for the Commonwealth.

1893, c. 386.—On any street railway a day's work for conductors, drivers and motormen shall not exceed ten hours performed within twelve consecutive hours. On holidays and extraordinary occasions, extra labor shall receive special compensation. Penalty, $100.

1894, c. 508, §§ 7-9.—Codifies 1890, c. 375; 1891, c. 350; 1893, cc. 406, 386. §§ 7-8. Employees of the Commonwealth. § 9. Employees of street railways.

1899, c. 344.—Repeals inconsistencies. After acceptance by voters, eight hours shall constitute a day's work "for all laborers, workmen and mechanics" employed by or on behalf of any city or town in this Commonwealth.

1900, c. 425.—Sixty hours shall constitute a week's labor for employees of county jails and of houses of correction. Any county officer "inducing or compelling" labor in violation of this act shall be punishable by fine of $25 to $50 for each offence.

IV. SAFETY AND SANITATION.

1. BOILERS AND ENGINES.

1845, c. 197.—Acceptance by city or town necessary. §§ 1-4, 10. Iron furnaces or steam engines shall not be erected without license from the municipal authorities, who may also

regulate their use. An engine, etc., used in violation, shall be treated as a "common nuisance." § 5. §§ 6–9. Appeal may be made to the Court of Common Pleas.[1] Notice of application for license.

1846, c. 96.—Amends 1845, c. 197, §§ 1–3, by extending its provisions to glass furnaces.

1850, c. 277.—Every steam boiler shall be furnished with a fusible safety-plug valve. Penalty, $1,000.

1852, c. 247.—Amends 1850, c. 277, and repeals inconsistences, by defining parties liable as "any person or corporation manufacturing, setting up, knowingly using or causing to be used, a steam boiler unprovided with the safety-plug."

1852, c. 191.—The mayor and aldermen or selectmen are given the right to enter and inspect any steam engine.

1859, c. 259.—Amends 1852, c. 191, by giving the right to inspect "steam boilers," as well as engines.

[2]*G. S. c. 88, 33–45.*—Codifies 1845, c. 197; 1846, c. 96; 1850, c. 277; 1852, cc. 191, 247; 1859, c. 259. §§ 33–34. License. § 35. Regulation. §§ 36–39. Appeal and proceedings, etc. § 41. Officials examine. § 40–42. Engine or boiler, a nuisance. § 43. Safety plugs. §§ 44–45. Penalties.

1862, c. 74.—Acceptance by the city or town necessary. A license shall be required for the use of a stationary engine within 500 feet of a dwelling. An engine erected without such license shall be deemed a common nuisance.

1880, c. 116.—Portable steam engines and boilers may be inspected by city or town officers and the use of unsafe ones be prohibited. Use against orders makes such engine a common nuisance.

P. S., c. 102, §§ 40–53.—Codifies G. S., c. 88, § 33–45; 1862, c. 74; 1880, c. 116. §§ 40–42. License and regulation. §§ 43–46. Appeal, proceedings, etc. §§ 47–48, 50. Nuisances. § 49. Officials examine. § 51. Safety plugs. §§ 52–53. Penalties.

[1] An order of the municipal authorities regulating the use of an engine etc., which was erected without license after the passage of St. 1845, c. 197, is in effect such a license. Call *v.* Allen, 1 Allen, 137.

[2] A legally erected engine is not a nuisance and the landlord is not liable to third persons for any injury resulting to them from its maintenance and use by the tenant. Saltonsall *v.* Banker, 8 Gray, 195.

The use of appliances for safety "ordinarily used in such establishments" is not defense for knowingly operating a boiler without a safety plug in a suit for damages. Cayzer *v.* Taylor, 10 Gray, 274.

1885, c. 374, §§ 83-85.—A steam boiler must rest upon the cellar floor or upon brick arches and iron beams and shall be encased in infusible material.

1895, c. 418.—§ 1. Owners or users of fixed steam boilers (except in private houses, U. S. boilers, those insured, used for agricultural purposes, etc., or of less than three-horse power) must annually report their location to the chief of district police. § 2. Every facility must be given to inspectors in their examination of "each of the boilers designated in § 1." § 3. The inspector shall give certificate for good condition and use of a boiler; without such certificate may be enjoined and the owner proceeded against before the Superior or Supreme Court, which may issue injunction (as in equity). § 4. The inspector may fix the maximum pressure and require a satisfactory automatic device. § 6. The chief of district police, with the approval of the governor, may adopt rules necessary to enforcement. § 5. Fees of $2 per inspection shall be returned monthly into the state treasury by inspectors. § 7. Penalty for violation—$500, three months' imprisonment, or both.

1898, c. 167.—Amends 1895, c. 418, § 2, by correcting the error in English which involved the inspection of boilers exempted by § 1: "Each of the boilers designated in § 1, and *not therein exempted*, shall be inspected."

1895, c. 471.—§ 1. An engineer who operates a fixed steam boiler not exempted by St. 1895, c. 418, § 1, and over eight-horse power, must obtain a license, and no owner shall allow an unlicensed engineer or fireman to operate longer than one week. § 2. A license—good for three years, unless revoked for cause—shall be given after examination and be renewable without examination. § 3. Grades for engineers shall be (1) unlimited horse power; (2) 150 horse power; (3) 50-horse power. Firemen ungraded. Special license to operate a special plant (good for three years) may be given upon examination. § 4. Fees ($1.00) are returnable by the examiner, if in the district police to the state treasurer; otherwise, to the town or city treasurer. § 5. Boiler inspectors shall act as examiners (§ 6) and shall notify all engineers to apply for license. License or notice of rejection shall be sent within forty-eight hours of examination. § 7. Appeal from the examiner is given to the decison of the chief of district police. § 8. Violation, after notice, is punishable by fine of $300 or three months' imprisonment.

1896, c. 546.—Continues 1895, c. 471, and repeals inconsistencies by allowing license to be given without examination to engineers who have been "employed continuously" for "five years next prior to the passage of this act," and by giving appeal to the decision of the five other examiners approved by the chief of district police. Penalty for "intentional" violation, $300 or imprisonment (three months.)

1899, c. 368.—Repeals inconsistencies. This is chiefly a restatement of St. 1896, c. 546. § 1. Adds exemption of boilers or engines "upon motor road vehicles" and "in apartment houses of less than five flats." § 2. Adds that the fact that an unlicensed engineer is found operating an engine, and again found so operating after one week, shall be evidence of violation. § 3. Adds that application for license shall show experience during the last three years of service, allows the applicant one spectator to take notes at the examination and, except upon appeal, allows but one examination within ninety days—license given within six days of approval, to be good as before or until a new one is granted—requires application for renewal to be brought within six months of its expiration, and upon issuance of a new-grade license requires the examiner to destroy the old one, also replaces one proved to have been lost by fire. § 4. Adds grades for firemen's licenses,—(1) any boiler or boilers, (2) low-pressure heating boilers. § 5. Defines to "have charge" as "to have supervision" over, and "person operating" as anyone "actually engaged in generating steam." § 6. Basis for estimating the horse power of boilers and engines. § 9. Allows the presence of a first-class engineer at the hearing of an appeal. § 10. Requires the license to be conspicuously posted in the engine or boiler room. § 11. Penalty upon "whoever violates," $10 to $300 or imprisonment (three months). Any trial justice may impose a fine less than $50.

1900, c. 201.—Amends 1899, c. 368, § 4, by allowing examination for special engineer service only when a written request by the owner of the plant is filed with the application.

2. DANGEROUS MACHINERY, FIRE-ESCAPES, ETC.

1877, c. 214.—§ 1. Belting, shafting, gearing and drums in all factories shall be protected, when, "in the opinion of the inspector," these are dangerous. No machinery, except

engines, shall be cleaned while in motion, if the inspector objects in writing. "All such establishments shall be well ventilated and kept clean." § 2. Openings and hatchways shall be guarded as directed by the inspector. § 3. When such building is three or more stories in height and accommodates forty or more persons there must be adequate tower stairs or outside fire-escapes, kept in repair and free from obstruction. § 4. The main doors shall open outwards when the inspector so directs in writing, and there must be apparatus for extinguishing fire. § 8. The person or corporation who violates shall be liable for damages due to violation and to fine of $50 to $500. The inspector shall prosecute after giving four weeks' notice.

1880, c. 181.—Amends 1877, c. 214, by extension to "mercantile establishments."

1881, c, 195.—Amends 1877, c. 214, § 8, by redefining parties liable as "any person, firm or corporation, being owner, lessee or occupant of any manufacturing establishment" or "owning or controlling the use of any (such) building or room."

1880, c. 197.—Every room above the second story in which five or more operatives are employed must have more than one stairway (inside or out), if possible at opposite ends. Outside escapes must have railed landings which connect by door or window at each story. Inspectors may accept other adequate provision.

1881 c. 137.—§ 1. In no manufacturing establishment shall explosives or inflammable compounds be left or used where hazardous to egress in case of fire. § 2. Penalty as in St. 1877, c. 214.

[1] *P. S., c. 104, §§ 13-19, 21, 22.*—Codifies 1877, c. 214; 1880, cc. 181,

[1] An employee cannot maintain an action against his employer for injury due to violation of P. S., c. 104, §§ 14-22, unless he himself was exercising due care. Taylor *v.* Carew Manufacturing Co., 143 Mass. 470.

P. S., c. 104, 14, as amended by St. 1882, c. 208, does not make the owner of a building, who does not comply with its provisions, liable for damages to a person injured in the absence of evidence that the act has been accepted by the city in which the building is located. Handyside *v.* Powers, 145 Mass. 123.

An experienced machinist injured by uncovered gearing, which is in plain sight and transmits power to the machine upon which he is working, cannot recover damages; and the employer is not negligent in failing to warn him of the risks of the employment. An employer is not liable to criminal prosecution (P. S., c. 104, § 22) or to action for violation of § 13 until the notice required by § 22 has been given him by an inspector. Foley *v.* Pettee Machine Works, 149 Mass. 294.

197; 1881, cc. 137, 195. § 13. Belting, etc. § 14. Openings. §§ 15–18. Stairways and fire-escapes. § 19. Doors and fire-extinguishing apparatus. § 21. Explosives. § 22. Penalties.

[1]*1882, c. 208.*—Amends c. 104, § 14, Public Statutes, by requiring all elevator cabs to be provided with appliances to hold the car in case of accident and by extending application of the law to "mercantile establishments."

1882, c. 266.—Amends c. 104, Public Statutes: § 1 (Amends, § 15) By including "all manufacturing establishments," and by allowing cities and towns to extend its provisions to other three-story buildings. § 3 (Amends, § 22) By recasting, and by adding that notice to one member of a firm, or to the clerk or treasurer of a corporation, shall be sufficient warning.

1888, c. 426.—Repeals c. 104, §§ 15-20, Public Statutes. Regulation of egress and escape from fire in certain buildings, including "factories, workshops, mercantile and other establishments,—a restatement of P. S., c. 104, §§ 15–10, with the following modifications: § 1 (modifies, § 15–18) applies "where *ten* or more persons" are employed "above the second story;" requires "railed landings" to the escapes; and instructs the inspector to give written notice of his responsibility to the "owner, lessor or occupant," who shall comply as directed in writing by said inspector. § 2. Requires the inspector to give his certificate—revokable for cause upon written notice to the holder—stating the number of persons for whom there is sufficient egress. § 3. His acknowledgment of an application for a certificate to hold ninety days. § 4. Requires that notice of any changes be sent to the inspector. § 5 (embodies, St. 1882, c. 266, § 3). Warning. § 6. Allows any one of joint owners to construct a necessary outside escape, which may project over the highway, upon any part of the building. § 7. Forbids a license for the use of premises without a certificate and makes one void after the expiration of the certificate. § 8. Forbids wooden flues, unprotected heating pipes, etc. § 9 (§ 19). § 10 Inspection. §§ 11 and 13. (1882, c. 266, § 1). Extension. § 12. Raises the penalty upon "owner, lessee or occupant" from $50 to $1,000.

[1] St. 1882, c. 208 (P. S., 104, § 14), requires that the elevator car be provided with a mechanical device for holding it in case of accident, *approved by the inspector,* not one which will "under all circumstances" hold in event of accident. Bourgo *v.* White, 159 Mass. 216.

1883, c. 173.—The inspector shall placard and prohibit the use of unsafe elevators until altered to his satisfaction. Any person removing the notice or using the elevator shall be liable to fine ($10 to $50).

1884, c. 52.—§ 1. In no building where operatives are employed shall doors be locked or fastened during working hours (§ 2), under penalty of $10 to $50, after five days' written notice.

1886, c. 173.—§ 1. In any manufacturing establishment where steam is used to propel machinery there must be communication—by bell, tube or other signal—with the engine-room, when the inspector deems necessary. § 2. Penalty, $25 to $50 after four weeks, written notice. Inspectors enforce.

1890, c. 179.—Amends 1886, c. 173, by allowing "appliances that control the motive power" as substitute for engine-room communication.

3. BUILDING PERMITS.

1888, c. 316.—§ 1. When a factory, workshop, mercantile or other establishment, "over two stories in height" and intended to accommodate ten or more employees above the second story, is to be erected, a copy of the building plans showing the ways of egress, provision for checking a fire, etc., must be deposited with the inspector and a certificate endorsed by the chief of district police be taken out. § 2. Provision for injunction and fine ($50–$1,000).

1893, c. 199.—Amends 1888, c. 316, by requiring the plans to include the system or method of ventilation, and by extending the responsibility of submitting plans (under penalty) to "any architect or other person who shall draw plans or specifications, or superintend the erection or construction of a building."

1894, c. 481, §§ *23–38, 41–43, 46, 51–54, 59, 60, 62.*—Codifies P. S. cc. 104, 13–19, 21–22; 1882, cc. 208, 266; 1883, c. 173; 1884, c. 52; 1886, c. 173; 1888, cc. 316,426; 1890, c. 179; 1893, c.c. 199. § 23. Belting, etc., protected—cleaning machinery. §§ 24–34. Egress, construction, certificates, license, damage and proceedings. § 60. Penalty. § 36. Extension. § 41. Openings. §§ 42–43. Elevators. § 46. Explosives. §§ 51–52. Communication with engine-room. § 59. Penalty. §§ 53–54. Locked doors. § 62. General penalty.

1900, c. 335.—Amends 1894, c. 481, § 24, by allowing, instead of the required inside or outside stairway, "such other way or

device as the owner shall elect," when approved in writing by the inspector.

4. SEATS FOR FEMALE EMPLOYEES.

1882, c. 150.—Every corporation or person who employs females in any manufacturing, mechanical or mercantile establishment shall provide suitable seats and permit such workers to use them when not necessarily engaged in active duties.

5. SANITATION IN FACTORIES.

1877, c. 214, § 1, (end.)—Factories "shall be well ventilated and kept clean. (See Dangerous Machinery, etc.)

1887, c. 103.—§§ 1–2. Factories and workshops must be kept clean and in proper sanitary condition. § 3. Inspectors shall notify the local board of health of any unsanitary condition not in this act provided against. § 4. Penalty: Fine not exceeding $100 after four weeks' notice, which may be given through one member of a firm, a clerk or officer having charge, such to stand personally liable. § 5. Definitions. These shall hold for all laws in which these words occur: "Person" means any individual corporation, partnership, company or association; "child" means under fourteen years; "young person" means between fourteen and eighteen years; "woman" means one over eighteen years; "factory" means any premises where steam, water, or other mechanical power is used in any manufacturing process; "workshop" means any premises, room or place, not a factory, where by manual labor any process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article, and to which or over which premises, etc., the employer has access or control: provided that such labor in a private house or room by one or all of the family dwelling there, or if a majority of those employed are members of such family, shall not constitute it a workshop.

1888, c. 305.—Amends 1887, c. 103, by extending its provisions to mercantile and other establishments or offices where two or more minors or women are employed. Also by allowing the occupant to recover a just claim upon others to bear expense—the claim to be brought within thirty days.

1887, c. 173.—§ 1. Factories and workshops where five or more persons are employed must be ventilated so far as the process will allow. § 2. Inspectors may order fans, etc., where necessary and not excessively expensive. § 3. Penalty : $100 after four weeks' written notice.

6. SANITATION IN TENEMENT WORKSHOPS.

1891, c. 357.—§ 1. Any workshop, *i. e.*, any house, room or place used as a dwelling and also for the purpose of making, altering, repairing or finishing for sale any ready-made coats, vests, trousers or overcoats, except in private by the family dwelling there, must be kept clean and in a sanitary condition. The proprietor shall notify the chief of district police, within fourteen days of its opening, the location, nature of work and number of employes. Such premises and garments shall be subject to inspection. § 2. Inspectors shall notify the chief of district police of violations, who shall notify the state board of health. § 3. "When it is reported" that infected clothing is being shipped to Massachusetts, the inspector shall examine such goods and the conditions of their manufacture and report danger to the state board of health. §§ 4-5. Persons who knowingly or falsely offer these goods, unlabeled, for sale are fined $50 to $100.

1892, c. 296.—Amends 1891, c. 357, by adding among garments enumerated "any wearing apparel of any description whatsoever intended for sale;" by requiring finishers to obtain license; and by requiring the label to read "tenement made," with state and town or city of its manufacture.

1893, c. 246.—Restates the above, adding that license must be obtained before any person or family takes such work to be done in a private house, etc.

1894, c. 508, §§ 44-48, 63, 76.—Codifies 1891, c. 357; 1892, c. 296; 1893, c. 246. §§ 44-45. Regulation of tenement workshops. § 46. Garments shipped to Massachusetts. §§ 47-48. Selling without label. §§ 63, 76. Penalties.

1898, c. 150.—Amends 1894, c. 508, §§ 44, 45, 47, and repeals inconsistencies by restating with the following modifications: § 1. Prohibits the making, etc., for sale of any wearing apparel, etc., in any "room or apartment in any tenement or dwelling" except by the family dwelling there; requires any family desiring to do such work

first to procure license, which is made issuable to any one member; and forbids any "person, partnership or corporation" to "hire, employ, or contract with any member of a family not holding license;" makes exception of any room or apartment, etc., "which is not used for living or sleeping purposes" nor connected with such, and which has a separate outside entrance; and allows the employment of tailor or seamstress for private work. 2. Requires report of unsatisfactory conditions to be sent to the local, instead of the state board of health. 3. Strikes out "knowingly," thus holding responsible "whoever sells or exposes for sale—"

7. SAFETY OF EMPLOYEES ON RAILROADS.

G. S., c. 63, §§ 81-82, 93.—Codification of previous railroad laws. § 81. There shall be a sufficient break and one "trusty and skillful" brakeman to every two cars. § 82. Also a brake and brakeman on the rear car of freight trains. § 93. Trains shall stop 500 feet from a crossing with another railroad and await a signal to continue.

1874, c. 372.—A revision of railroad laws which adds the following: § 118. New or renewed switches shall be safety switches approved by commissioners. Penalty, $200, and $5.00 per day of their use. § 119. Suitable bridge guards approved by commissioners shall be erected and maintained where bridges are less than eighteen feet above the track. Penalty $50 for each month of continued violation; and not more than $100 and thirty days' imprisonment for their willful destruction. § 122. Commissioners may prescribe further rules for special crossings. § 131. Every car shall be equipped with specified tools and such others as commissioners shall require. Penalty $500. § 132. Passenger cars shall not be lighted by explosive oils.

1881, c. 68.—Amends 1874, c. 372, § 119, by striking out "less than eighteen feet above the tracks."

1881, c. 143.—Amends 1874, c. 372, § 122, by excepting roads which maintain a system of interlocking signals approved in writing by the commissioners.

1881, c. 194.—Persons employed in positions which require them to distinguish colors shall pass examination for color-blindness before and every two years during employment. Penalty for employing in violation, $100.

P. S., c. 112, §§ 159–162, 170–172, 179.—Codifies 1874, c. 372, §§ 118–122, 130–132; 1881, cc. 68, 143, 194. §§ 159–160. Switches and bridge guards. §§ 161–162. Crossings. §§ 171–172. Tools, light. § 179. Color-blindness.

1882, c. 54.—Amends Public Statutes, c. 112, § 171, by requiring two sets of specified tools, one inside and one outside, for every car (except freight), the place to be approved by the commissioners; one set shall suffice if accessible from within and without. § 2. Penalty for tampering with tools, not more than $100, three months' imprisonment, or both. § 3. Safeguards against fire shall be as approved in writing by commissioners (§ 4), who may also require such other appliances as safety of life in passenger trains may demand. Penalty, $500.

1883, c. 125.—Amends Public Statutes, c. 112, § 179, by striking out the requirement of biennial examination for color-blindness.

1885, c. 35.—A system of automatic signals exempts roads from Public Statutes, c. 112, § 161.

1882, c. 73.—§ 1. Commissioners shall draft, and (§ 3) may revise, regulations for testing locomotive boilers and send the same to every railroad corporation. § 2. Penalty for using untested boilers, $20 per day. § 4. When possible, the master mechanic shall make the test.

1884, c. 222.—New and renewed couplers on freight cars shall be safety couplers, which have been prescribed by commissioners, after examination and test. § 2. This act shall be enforced by the supreme judicial court upon the application of the attorney-general.

1886, c. 120.—Frogs, switches, etc., shall be blocked. A certificate from the commissioners shall be evidence. § 2. Penalty, $100 to $1,000.

1887, c. 362.—The method of heating any car shall be subject to the approval of commissioners.

1891, c. 249.—No passenger car shall be heated by stove or furnace kept inside the car or suspended from it, unless from temporary necessity or with a grant of exception from commissioners.

1894, c. 41.—Corporations shall block, etc., frogs, switches, etc., and keep them so blocked, etc., by some method approved by the commissioners. § 2. Penalty, $10 to $100 for each offence.

(See above, 1886, c. 120.)

1895, c. 362.—§ 1. Locomotives and cars shall be equipped with steam train-brake appliances, and corporations may refuse to receive unequipped cars from other roads. Freight cars shall have (§ 2) automatic couplers, (§ 3) grab-irons and (§ 4) draw-bars. Exception is made of four-wheeled cars and locomotives hauling them.

III. INSPECTION.

1. BY THE SCHOOL COMMITTEE.

1842, c. 60, § 1.—The school committee shall prosecute violations of the child-labor laws—penalties recoverable by indictment to the use of the public schools.

1849, c. 220, § 3.—Embodies the above clause (1842, c. 60, § 1).

1858, c. 83, § 2.—Embodies the above clause (1842, c. 60, § 1).

G. S., c. 42, § 2.—Codifies 1842, c. 60, § 1; 1849, c. 220, § 3; 1858, c. 83, § 2.

1876, c. 52, § 4.—Truant officers shall visit mechanical and manufacturing establishments once per school term, and report all violations to the school committee.

1878, c. 257, § 3.—Truant officers may require the production of certificates.

P. S., c. 48, §§ 5-6.—Codifies 1876, c. 52, § 4. 1878, c. 257, § 3. § 5. Truant officers' visit. § 6. Certificates.

1888, c. 348, § 8.—Truant officers, when authorized by the school committee, "may" visit factories, workshops and mercantile establishments and report violations of this act to the school committee, the chief of district police or the inspector. The inspector or truant officer may require the production of certificates and lists of those under sixteen years. Truant officers shall inquire into the employment otherwise of children "during the hours of public school session," and such officer or the inspector may prosecute if such employment continues one week after written notice to the offender that suit will be brought, or if more than one such written notice in regard to one or another child has been given within one year.

1894, c. 508, § 23.—Codifies P. S., c. 48, §§ 5-6; 1888, c. 348, § 8.

2. BY THE POLICE DEPARTMENT.

1866, c. 273.—§ 5. The governor with the consent of the council "may" instruct the constable of the Commonwealth to enforce the provisions of G. S., c. 42, and all other laws regulat-

ing the employment of children in manufacturing establishments, and to prosecute violations.

1867, c. 285.—Repeals 1866, c. 273, § 4. The constable is required to detail one deputy to enforce this and all laws concerning the labor of minors, and annually to report to the governor. Any person may prosecute.

1877, c. 214.—Repeals inconsistencies. § 6. State detectives shall be detailed to inspect factories and public buildings—the chief to make annual report to the governor. § 7. Their duties shall be to enforce this (safety requirements) and all other acts relative to the employment of women and minors, to accomplish which they are given full power to enter, examine and prosecute. § 8. The inspector shall prosecute after giving four weeks' notice. § 9. Such inspection shall not extend to Boston or other cities which under statute or charter supports its own inspection officers and enforces similar regulations. § 10. An inspector shall be discharged for failure in the performance of his duties.

1879, c. 305.—§ 12. The governor is authorized to appoint two inspectors from the police department.

1880, c. 178.—Amends 1879, c. 305, § 12, by adding that in any district where an officer of district police acts as inspector the governor may appoint another to the force, which shall not, however, exceed sixteen men.

1880, c. 181.—Amends 1877, c. 214, by providing inspection of conditions of safety in mercantile establishments.

1881, c. 137.—Inspectors enforce regulations concerning explosives, etc.

P. S., c. 103, §§ 9-10.—Codifies 1877, c. 214, §§ 6-7; 1879, c. 305, § 12; 1880, cc. 178; 181; 1881, c. 137. § 9. Inspectors. § 10. Duties. § 11. Annual report by chief.

P. S., 104, §§ 23-24.—Embodies 1877, c. 214, §§ 9, 10. § 23. Boston and other cities excepted. § 24. Discharge of inspectors.

1882, c. 266. §§ 4-5.—Amends Public Statutes, c. 104, § 23, by correcting sections enforceable by inspectors.

1884, c. 52, § 3.—Inspectors enforce the requirement of free exit—unfastened doors. (See Safety.)

1885, c. 131.—The governor may appoint four additional district police officers—the whole force not to exceed twenty men.

1886, c. 260, § 3.—The chief of district police shall keep record of accidents reported and include an abstract of the same in his annnal report.

1887, c. 218.—Amends Public Statutes, c. 103, § 10, by providing for inspection of mechanical establishments, and the enforce-

ment by inspectors of regulations concerning sanitation and ventilation. (See Sanitation, St. 1887, c. 103, and St. 1887, c. 173.)

1887, c. 219.—Amends Public Statutes, c. 104, § 23, by correcting it to read: The authority of inspectors to enforce §§ 13–22 shall not extend to Boston." (Other exceptions stricken out.)

1887, c. 276.—Repeals 1887, c. 219, and amends c. 104, § 23, by correcting it to read: "The authority of the inspector mentioned in P. S., c. 104, § 13 (*i. e.*, State Inspectors), to enforce §§ 14–22 shall not extend to Boston."

1887, c. 256.—The governor may appoint two additional district police officers,—the whole force not to exceed twenty-two men.

1888, c. 113.—The police department is divided into separate "detective" and "inspection" departments—inspectors to number ten, with the chief of district police at their head. They shall retain all powers of district police, but, except at the call of the governor to quell disturbance, shall do only inspection work.

1888, c. 426. § 13.—The governor shall appoint, from time to time, ten qualified inspectors.

1890 c. 438, §§ 1–3.—Appeal from the orders of inspectors is given to the decision of a justice of the Superior Court in cases of building certificates. The justice may appoint three disinterested experts to examine the matter, hear parties, alter, affirm or annul the inspector's order and issue the certificate required, § 2. Compensation. § 3. Costs.

1891, c. 302.—The governor may increase the inspection department by appointing two females.

1892, c. 210.—Prescribes a legal form of complaint of violations of labor laws, concerning the employment of women and minors.

1893, c. 111.—The chief of district police shall return written or printed acknowledgment to senders of accident reports.

1893, c. 387.—The governor shall appoint one additional inspector to inspect uninsured steam boilers and engines, and to examine the qualification of engineers, and report to the chief.

[1] *1894, c. 481, §§ 1–7, 9–10, 35, 39, 55–57.*—Codifies P. S., c. 103, §§ 1,

[1] The owner of a hotel (factory or workshop) cannot be said to have violated St. 1888, c. 426, so as to be liable under § 12 for injuries occasioned by neglect to provide sufficient egress from fire, until after the inspector has decided what ways are, in his opinion, necessary and has given notice in writing to the owner specifying the same, and the owner has neglected or refused to comply with such order. Perry *v.* Bangs, 161 Mass. 35

9-11; P. S., c. 104, §§ 23-24; 1882, c. 266, §§ 4-5; 1884, c. 52, § 3; 1885, c. 131; 1886, c. 260; 1887, cc. 218, 256; 1887, cc. 219, 276; 1888, cc. 113, 389, 426; 1890, c. 438, § 13; 1891, c. 302; 1893, c. 387. § 1. Inspection department. § 2. Duties. § 3. Boiler inspector. §§ 4-7. Prosecution, etc. §§ 9-10. Report of accidents. § 35. Inspectors enforce construction requirements. § 39. Boston exempted. § 55. Inspectors enforce this act. § 56. Discharge. § 57. Annual report by the chief.

1887, c. 103, § 3.—When the inspector finds unsanitary conditions not provided against in this act, but abatable under P. S., c. 80, he shall report to the local board of health.

1891, c. 357, § 2.—Inspectors shall report evidence of infectious disease to the chief of district police, who shall notify the state board of health to examine and issue orders. § 3. Inspectors shall report any unhealthiness found in clothing being shipped to Massachusetts to the state board of health.

1893, c. 246, §§ 2-3.—Embodies 1891, c. 357, §§ 2-3.

1894, c. 508, §§ 35, 45, 46.—Codifies 1887, c. 103, § 3; 1891, c. 357, §§ 2-3 1893, c. 246, §§ 2-3. § 35. Unsanitary condition reportable to the board of health. §§ 45-46. Reporting unhealthy clothing to the board of health.

1887, c. 399.—Amends 1886, c. 87. The chief of district police or the inspector may bring complaint against a corporation which does not comply with the weekly payment of wages requirement.

1894, c. 508, § 52.—Embodies 1887, c. 399.

1895, c. 144.—Inspectors shall enforce this act (concerning specification to weavers).

1895, c. 418.—§ 6. The chief of district police may make all rules necessary to enforce this act. § 8. The governor may appoint three additional inspectors to enforce the steam-boiler inspection laws.

1895, c. 471. § 5.—Boiler inspectors shall act as examiners of engineers § 7.—Appeal is given to the decision of the chief of district. police.

1896, c. 546. §§ 4-5.—Amends 1895, c. 471, by authorizing the appointment of two more inspectors to be examiners of engineers, and by giving appeal to the decision of the five other inspectors acting as a board of appeals,—such decision needing the approval of the chief.

1898, c. 261.—The governor shall appoint four additional members to the boiler inspection department.

1899, c. 368, § 8.—Embodies 1895, c. 471, as amended by 1896, c. 546.

3. FOR RAILROADS.

1874, c. 372, § 6.—There shall be a Board of Railroad Commissioners, consisting of three persons, appointed by the governor, with the approval of the council. Term of office three years, one retiring annually. § 7. They shall have supervision of railroads and railways, shall keep informed of condition and manner of operation, with reference to the security and accommodation of the public, and of the compliance of corporations with charters and laws. § 14. They shall make annual report to the general court.

1876, c. 206.—No commissioner shall perform business contracts with any railroad corporation, or receive bonus or other reward.

P. S., c. 112, §§ 9, 13–15.—Codifies 1874, c. 372, §§ 6-7, 14; 1876, c. 206. § 9. Commissioners. § 13. Annual report. §§ 14–15. Duties.

1886, c. 242.—Commissioners shall, every two years, make examination and test of forms of safety couplers for freight cars.

1894, c. 59.—Repeals 1886, c. 242.

1887, c. 334.—Commissioners may require corporations to have bridges and their approaches examined once every two years by competent engineers. A copy of the detailed report of such examiner shall be sent to the commissioners (§ 2), who shall employ an expert to examine it, and, if necessary, make examination of the bridge also. § 3. This does not exempt corporations from making more frequent examinations of bridges if necessary.

1888, c. 365.—Evidence taken at inquests shall be forwarded to the commissioners.

1894, c. 535.—Commissioners may be assisted in their duties of supervision by inspectors, who shall examine the condition of road apparatus.

1898, c. 366.—Commissioners shall enter account of accidents in their annual report.

IV. THE EMPLOYMENT CONTRACT.

1. VOTING.

1852, c. 321.—Whoever, by bribery, threat of discharge or reduction of wages, by promise of employment or higher wages, attempts to influence a voter, shall be punishable by a

fine not exceeding $300, or by imprisonment not exceeding one year, or both.

G. S., c. 7, § 31.—Embodies St. 1852, c. 321.

P. S., c. 7, § 60.—Embodies G. S., c. 7, § 31.

1887, c. 272.—§ 1. Qualified voters who work in manufacturing, mechanical or mercantile establishments—except such as may lawfully conduct business on the Lord's day—shall be allowed two hours' leave after the opening of the polls when they so request. Penalty of $20 to $50 is put upon the owner, superintendent or overseer for refusal.

1890, c. 423, §§ 136, 143, 144.—Embodies P. S., c. 7, § 60; 1887, c. 272. § 136. Influencing voter. §§ 143–144. Time to vote. Penalty.

1893, c. 417, §§ 7, 336, 337.—Codifies P. S., c. 7, § 60; 1887, c. 272. Repeals 1890, c. 423. § 7. Time to vote. § 336. Penalty. § 337. Influencing voter.

1894, c. 209.—Amends 1893, c. 417, § 337, by extending the penalty to whoever discharges or reduces the wages of an employee, "assigning as the reason the giving or withholding" of his vote.

1894, c. 508, §§ 4, 78, 5, 58; Supercedes, 1893, c. 417, §§ 7, 336-337.—Embodies P. S., c. 7, § 60; 1887, c. 272. § 4. Time to vote. § 5. Influencing voter. § 58. Penalty. § 78. General penalty.

1898, c. 548, §§ 5, 409, 410.—Revises and codifies election laws. § 5. Time to vote. § 409. Penalty—fine not exceeding $100. § 410. Revised to read "promise of employment *at* (instead of *or*) higher wages," and embodies St. 1894, c. 209. Penalty, imprisonment not longer than one year. (No fine.)

2. INTIMIDATION.

[1]*1875, c. 211.*—§ 1. In any manufacturing establishment where a laborer, on leaving without notice, forfeits any part of

[1] An indictment on St. 1875, c. 211, charging that the defendant "by force and intimidation did seek to prevent A from continuing in the employment of" a certain corporation, sufficiently sets forth the offense intended to be charged. Further allegations are rejected as surplusage. Commonwealth *v.* Markdyer, 128 Mass. 70.

Banners displayed in front of a person's premises with inscriptions calculated to injure his business and to deter workmen from entering or continuing in his employment constitutes a nuisance which equity will restrain by injunction. Sherry *v.* Perkins, 147 Mass. 212.

his wages earned, a like penalty shall be upon the employer for discharging without notice, except for incapacity or misconduct. This shall not apply in time of general suspension of labor. § 2. Whoever shall, by intimidation or force prevent or seek to prevent any person or persons from entering or continuing in the employment of any corporation, company or individual, shall be fined not more than $100.

P. S., c. 74.—Embodies 1875, c. 211. § 1. Discharge. § 2. Intimidation.

1888, c. 134.—§ 1. Labor or trade organizations may become incorporated, for lawful purposes, upon compliance with the requirements of P. S., c. 115, § 3. § 2. The commissioner of corporations shall endorse the certificate of conformity. § 3. Specified by-laws required. § 4. Approval by the commissioner is necessary when by-laws are changed. Only a majority vote shall eject a member, and all books and records shall be accessible to him.

1892, c. 330.—Any person, corporation or agent or officer thereof who coerces or compels any person or persons to agree not to join or become a member of a labor organization shall be fined, not exceeding $100.

1894, c. 437.—Amends 1892, c. 330, by inserting after "become," "or continue to remain" a member, etc., and by defining "labor organization" to exclude any "organization seeking directly or indirectly to accomplish objects or purposes by intimidation or force."

1894, c. 508, §§ 1-3, 78.—Codifies P. S., c. 74, §§ 1-2; 1892, c. 330; 1894, c. 437. § 1. Discharge. § 2. Intimidation from employment. § 3. Intimidation from trade union. § 78. General penalty.

1895, c. 129.—Amends 1894, c. 508, § 1, by striking out "except for incapacity or misconduct, unless in case of a general suspension of labor."

1900, c. 469.—§ 1. No person or corporation, agent or employee of such, when under contract with the Commonwealth or any municipal corporation or county board, commissioner or officer acting for these, shall, directly or indirectly, make it a condition of employment that that person shall lodge, board or trade at any particular place or with a particular person. § 2. The provisions of this act shall form a part of such contracts. § 3. Penalty, fine, $100 for each offence.

3. EMPLOYER'S LIABILITY.

Before 1877, the Common Law was the only remedy.

1877, c. 101.—No contract which exempts a person or corporation from liability for bodily injuries received by an employee is valid.

P. S., c. 74, §§ 3-5.—Embodies St. 1877, c. 101.

P. S., c. 112, § 212.—If a person—*not an employee*—while exercising due care, is killed through the negligence or carelessness of a railroad or street-railroad corporation, or of "the unfitness or gross negligence of its servants," the corporation shall be liable to fine—$500–$5,000—assessed with reference to the degree of culpability. Damages recoverable by indictment, *or* in action of tort brought by the next of kin, or executor, within one year.

1883, c. 243.—Amends c. 112, § 212, Public Statutes, by extending such recovery of damages to the railroad employee "killed under such circumstances as would have entitled him to maintain action if death had not resulted."[1]

1887, c. 270.—When an employee, "exercising due care," is injured (1) by "ways, works or machinery" used in the employer's business, and defective through his own or his appointee's negligence; or (2) through the negligence of one in superintendence "whose sole or principal duty is that of superintendence;" or (3) through the negligence of one in "charge or control of any signal, switch, locomotive engine or train upon a railroad," the employee or his legal representative shall have "the same right of compensation and remedies against the employer as if he had not been an employee." § 2. In case of instant death the next of kin, "if dependent upon the wages of the deceased," may maintain action as though the deceased had consciously suffered and not died instantaneously. § 3. The maximum compensation shall be $4,000, or in case of death (which includes injury) $500–$5,000, according to the culpability of the employer, and also with reference to the proportion which his contributions may bear to the whole of the employee's benefit fund.

1888, c. 155.—Amends 1887, c. 270, by requiring a written notice to be sent to the employer, signed by the injured man, who, if incapacitated, may send it within ten days of the removal of his incapacity. If he is incapacitated until death,

[1] **Daley *v.* Bost. & Alb. R. R. Co., 147 Mass. 113.**

notice may be sent by the executor within thirty days of his appointment.

1892, c. 260.—Amends 1887, c. 270, by allowing like action for damages when death was not instantaneous, or preceded by conscious suffering.

1893, c. 359.—Amends 1887, c. 270, by defining a "car" possessed or used by a railroad as "part of machinery."

1894, c. 499.—Amends 1887, c. 270, by including as superintendent "any person acting as superintendent with the authority or consent of such employer."

1897, c. 491, a.—Amends 1887, c. 270, by defining "train" as one or more cars in motion, whether attached or not to an engine;" "person in charge" as any person who, as part of his duty for the time being, physically controls or directs the movements of a signal, switch or train.

1900, c. 446.—Amends 1887, c. 270, § 3, by extending the time limit for bringing notice from thirty to sixty days.

1895, c. 362.—An employee does not assume risk by continuing in employment after the unlawful use of the locomotive has been brought to his attention.

2. REPORT OF ACCIDENTS.

1886, c. 260.—Accidents to employees in factories or manufacturing establishments, causing death or four days' detention from work, must be reported by the employer to the district police, recorded and annually published by the chief of police.

1890, c. 83.—Amends 1886, c. 260, by extending it to mercantile establishments.

1893, c. 111.—The chief of police shall send written acknowledgment to senders of accident reports.

1894, c. 481, 8-10.—Codifies 1886, c. 260; 1890, c. 83; 1893, c. 111.[1]

[1] Is cumulative to the common law penalty. Ryals *v.* Mechanics' Mills, 150 Mass. 190; Coughlin *v.* Boston Towboat Co., 151 Mass. 92; Clark *v.* Merchant & Miners' Transp. Co., 151 Mass. 353.

The employee assumes evident risk. Boyle *v.* N. Y., N. Eng. R. R., 151 Mass. 102; Cassady *v.* Bost. & Alb. R. R., 164 Mass. 168; Donahue *v.* Washburn & Moen Manuf. Co., 169 Mass. 574; Cunningham *v.* Lynn & Bost. St. R. R., 170 Mass. 298; Nealand *v.* Lynn & Bost. St. R. R., 173 Mass. 42.

St. 1887, c. 270, applies to cities and towns. Pellingell *v.* Chelsea, 161 Mass. 368; Coughlan *v.* Cambridge, 166 Mass. 268; Norton *v.* New Bedford, 166 Mass. 48.

An employee of a city commission is not necessarily an employee of the city. McCann *v.* Waltham, 163 Mass. 344; Mahoney *v.* Bost., 171 Mass. 427.

V. WAGE PAYMENT.

1. WEEKLY PAYMENTS.

1879, c. 138.—Cities shall pay laborers, whose wages do not exceed $2 per day, weekly upon request.

P. S., c. 28, § 12.—Embodies, 1879, c. 138.

1886, c. 87.—§ 1. Every manufacturing, mining, quarrying, mercantile, railroad, street railway, telegraph, telephone or

The care that an ordinarily sensible man would exercise under the given circumstances is considered "due care." Mellor *v.* Merch. Manuf. Co., 150 Mass. 362; Lothrop *v.* Ftchbg. R. R. Co., 150 Mass. 423; Thompson *v.* Bost. & Me. R. R., 153 Mass. 391; Shea *v.* Bost. & Me. R. R. 154 Mass. 31; Mather *v.* Bost. & Alb. R. R., 158 Mass. 36; Browne v. N. Y. & N. Eng. R. R., 158 Mass. 247; Lynch v. Bost. & Alb. R. R., 159 Mass. 536; Brick *v.* Bossworth, 162 Mass, 334; Mears *v.* Bost. & Me. R. R., 163 Mass. 150; McLean *v.* Chemical Paper Co., 165 Mass. 5; Nihill *v.* N. Y., N. H. & H. R. R., 169 Mass. 52; Willey *v.* Bost. Electric Light Co., 168 Mass. 40; Hughes *v.* Malden & Melrose Gas Lt. Co., 168 Mass. 395; Fairman *v.* Bost. & Alb. R. R. Co., 169 Mass. 170; Scullane *v.* Kellogg, 169 Mass. 544; Foss *v.* Old Col. R. R., 170 Mass. 168; Cavagnaro *v.* Clark, 171 Mass. 359; Murphy *v.* City Coal Co., 172 Mass. 324; McCoy *v.* Westborough, 172 Mass. 501; Demers *v.* Marshall, 172 Mass. 548; Keevan *v.* Walker, 172 Mass. 56; Allard *v.* Hildreth, 173 Mass. 26; Knight *v.* Overman Wheel Co., 174 Mass. 455.

Working apparatus of sufficiently permanent character constitutes "ways, works or machinery" and is considered to be defective when due inspection would disclose the danger of handling it in customary usage. Ryalls *v.* Mechanics' Mills, 150 Mass. 190; Dolan *v.* Alley, 153 Mass. 380; May *v.* Whittier Mach. Co., 154 Mass. 29; Carbury *v.* Downing, 154 Mass. 248; Coffee *v.* N. Y., N. H. & H. R. R., 155 Mass. 21; O'Keef *v.* Brownell, 156 Mass. 131; Trask *v.* Old Col. R. R. Co., 156 Mass. 304; O'Malley *v.* S. Bost. Gas Lt. Co., 158 Mass. 135; Fisk *v.* Ftchbg. R. R. Co., 158 Mass. 238; Conroy *v.* Clinton, 158 Mass. 318; Regan *v.* Donovan, 159 Mass. 1; Prendible *v.* Conn. Riv. Manuf. Co., 160 Mass. 131; Beauregard *v.* Webb Granite & Construct. Co., 160 Mass. 201; Lynch *v.* Allyn, 160 Mass. 248; Engel *v.* N. Y., Prov. & Bost. R. R., 160 Mass. 260; Burns *v.* Washburn, 160 Mass. 457; Bronellette *v.* Conn. Riv. R. R. Co., 162 Mass. 198; Bowers *v.* Conn. Riv. R. R. Co., 162 Mass. 312; Carroll *v.* Willcutt, 163 Mass. 221; Shea *v.* Wellington, 163 Mass. 365; Caron *v.* Bost. & Alb. R. R. Co., 164 Mass. 523; Geloneck *v.* Dean Steam Pump Co., 165 Mass. 202; Adasken *v.* Gilbert, 165 Mass. 443; Coughlan *v.* Cambridge, 166 Mass. 268; Welch *v.* Grace, 167 Mass. 590; Whittaker *v.* Bent, 167 Mass. 588; Reynolds *v.* Barnard, 168 Mass. 226; Willey *v.* Bost. Electric Lt. Co., 168 Mass. 40; McCay *v.* Hand, 168 Mass. 270; Bique *v.* Hosmer, 169 Mass. 541; Gunn *v.* N. Y., N. H. & H. R. R., 171 Mass. 417; Whelton *v.* W. End St. R. R., 172 Mass. 555; Keevan *v.* Walker, 172 Mass. 56; Copithorne *v.* Hardy, 173 Mass. 400; McMahon *v.* McHale, 174 Mass. 320.

A superintendent is deemed negligent when he fails to exercise such forethought for the safety of his workmen as would an ordinarily careful man in carrying on the work. Lothrop *v.* Ftchbg. R. R. Co., 150 Mass. 423; Malcolm *v.* Fuller, 152 Mass. 160; Coffee *v.* N. Y., N. H. & H. R. R.,

municipal corporation, and any incorporated express company or water company, shall pay all employees weekly,—but if such employee is absent, he shall be entitled to the wages on demand. § 2. Wages, penalty ($10–$50) and costs shall be recoverable upon complaint

155 Mass. 21; McCauley *v.* Norcross, 155 Mass. 584; Connolly *v.* Waltham, 156 Mass. 368; Shepard *v.* Bost. & Me. R. R., 158 Mass. 174; Davis *v.* N. Y., N. H. & H. R. R., 159 Mass. 532; Prendible *v.* Conn. Riv. Manuf. Co., 160 Mass. 131; Beauregard *v.* Webb Granite & Construction Co., 160 Mass. 201; Mahoney *v.* N. Y. & N. Eng. R. R., 160 Mass. 573; Shea *v.* Wellington, 163 Mass. 365; O'Neil *v.* O'Leary, 164 Mass. 387; Geleneck *v.* Dean Steam Pump Co., 165 Mass. 202; Crowley *v.* Cutting, 165 Mass. 436; Norton *v.* New Bedford, 166 Mass. 48; McCann *v.* Kenedy, 167 Mass. 23; Welch *v.* Grace, 167 Mass. 590; Nihill *v.* N. Y., N. H. & H. R. R., 167 Mass. 52; Kanz *v.* Page, 168 Mass. 217; Hughes *v.* Malden & Melrose Gas Lt. Co., 168 Mass. 395; Thompson *v.* Norman Paper Co., 169 Mass. 416; Scullane *v.* Kellogg, 169 Mass. 544; Cunningham *v.* Lynn & Bost. St. R. R., 170 Mass. 298; Gardner *v.* New Eng. Telephone, 170 Mass. 156; Cavagnaro *v.* Clark, 171 Mass. 359; Murphy *v.* City Coal Co., 172 Mass. 324; Collins *v.* Greenfield, 172 Mass. 78; McCoy *v.* Westborough, 172 Mass. 504; Leslie *v.* Granite R. R., 172 Mass. 468; Copithorne *v.* Hardy, 173 Mass. 400; O'Brien *v.* W. End St. R. R., 173 Mass. 105; Millard *v.* W. End St. R. R., 173 Mass. 512; O'Riley *v.* Bowker Fertilizer Co., 174 Mass. 202; La Belle *v.* Montague, 174 Mass. 453; Knight *v.* Overman Wheel Co., 174 Mass. 455.

"The employer is not liable to the employee for injuries due to the careless manner in which (he or) his fellow servants do their share of the work." O'Keef *v.* Brownell, 156 Mass. 131; Fitzgerald *v.* Bost. & Alb. R. R., 156 Mass. 293; Cashman *v.* Chase, 156 Mass. 352; Roseback *v.* Ætna Mills, 158 Mass. 379; Burns *v.* Washburn, 160 Mass. 457; O'Brien *v.* Rideout, 161 Mass. 170; Dowd *v.* Bost. & Alb. R. R., 162 Mass. 185; Adasken *v.* Gilbert, 165 Mass. 443; Whittaker *v.* Bent, 167 Mass. 588; Brittian *v.* W. End St. R. R., 168 Mass. 10; Riou *v.* Rockport Granite Co., 171 Mass. 162; O'Brien *v.* Look, 171 Mass. 36; Flynn *v.* Bost. Electric Lt. Co., 171 Mass. 395; Gouin *v.* Woodbury, 173 Mass. 180; La Belle *v.* Montague, 174 Mass. 453.

The "person in charge" of a signal, switch, etc., is deemed negligent when he fails to exercise the diligence of an ordinarily careful man. Ramsdell *v.* N. Y. & New Eng. R. R., 151 Mass. 245; Dacey *v.* Old Col. R. R. Co., 153 Mass. 112; Donahoe *v.* Old Col. R. R. Co., 153 Mass. 356; Thyng *v.* Ftchbg. R. R. Co., 156 Mass. 13; Steffe *v.* Old Col. R. R. Co., 156 Mass. 262; Devine *v.* Bost. & Alb. R. R. Co., 159 Mass. 348; Davis *v.* N. Y., N. H. & H. R. R. Co., 159 Mass. 532; Perry *v.* Old Col. R. R. Co., 164 Mass. 296; Caron *v.* Bost. & Alb. R. R. Co., 164 Mass. 523; Coughlan *v.* Cambridge, 166 Mass. 268; Fairman *v.* Bost. & Alb. R. R. Co., 169 Mass. 170; Shea *v.* N. Y., N. H. & H. R. R. Co., 173 Mass. 177.

Death is considered to have been instantaneous, etc., when there is no evidence of subsequent life or consciousness. Meher *v.* Bost. & Alb. R. R. Co., 158 Mass. 36; Mears *v.* Bost. & Me. R. R. Co., 163 Mass. 150; Wiley *v.* Bost. Electric Lt. Co., 167 Mass. 40; Green *v.* Smith, 169 Mass. 485; Knight *v.* Overman Wheel Co., 174 Mass. 455.

A notice is deemed sufficient in which enough appears to show it to be

within thirty days (§ 4), to be compelled by warrant of distress. § 3. The case shall be yielded by the non-appearance of the accused.

1887, c. 399.—Amends 1886, c. 87, § 1, by striking out "municipal corporations" from the first clause, to insert later that "every incorporated city" shall pay every employee weekly unless requested otherwise in writing; by requiring "every municipal corporation not a city, and every incorporated county," so to pay if requested; by providing that co-operative corporations need not so pay a stockholding employee unless requested; and providing that the railroad commissioners after hearing may revoke this requirement when it appears to be prejudicial. § 2. By adding that the chief of district police or an inspector may bring complaint against a corporation which does not comply within two weeks after written notice that such complaint will be brought; and by allowing in defence attachment or valid assignment of wages,—assignment directly or indirectly to the corporation being invalid, claim against, absence of or tender to the employee.

1891, c. 239.—Amends 1886, c. 87, by striking out the warning notice of complaint to be brought; and by debarring as defence payment after complaint.

[1]*1894, c. 508, §§ 51-54.*—Codifies P. S., c. 28, § 12; 1886, c. 87; 1887,

the basis of a claim against the defendant, not misleading him; and when the same is brought, on behalf of the person who institutes suit, within the designated time, but not on the same day that writ of action is served. Drommie *v.* Hogan, 153 Mass. 29; Donahue *v.* Old Col. R. R. Co., 153 Mass. 356; Dolan *v.* Alley, 153 Mass. 380; Gustafsen *v.* Washburn & Moen Manuf. Co., 153 Mass. 468; Daly *v.* N. J. Steel & Iron Co., 155 Mass. 1; Jones *v.* Bost. & Alb. R. R. Co., 157 Mass. 51; Veginan *v.* Morse, 160 Mass. 143; Beauregard *v.* Webb Granite & Construction Co., 160 Mass. 201; Brick *v.* Bosworth, 162 Mass. 334; Driscoll *v.* Fall Riv., 163 Mass. 105; Coughlan *v.* Cambridge, 166 Mass. 268; Shea *v.* N. Y., N. H. & H. R. R. Co., 173 Mass. 177.

[1] A complaint for violation of St. 1894, c. 508, § 51, which contains no sufficient allegation that the wages were due, is fatally defective. Commonwealth *v.* Dunn, 170 Mass. 140.

When, by agreement, a weaver is paid according to the "quality," which is "to be determined by the superintendent," the reference is to "differences of quality for which the weaver is responsible." A deduction, under an agreement, made from weekly wages as a fine for imperfect weaving, is not a violation of St. 1894, c. 508, § 51; and if sued for the amount, the corporation is entitled to judgment under a general denial, or to recover in set-off. Gallagher *v.* Hathaway Manufacturing Corporation, 172 Mass. 230.

c. 399; 1891, c. 239. § 51. Payments. § 52. Complaint, defence. §§ 53–54. Proceedings.

[1]*1895, c. 438.*—Amends 1894, c. 508, §§ 51–54, by defining "corporations" to include "any person or partnership in any manufacturing business and having more than twenty-five employees."

1896, c. 241.—Amends 1895, c. 438, by forbidding special contract as a means of exemption from weekly payments, under penalty of $10 to $50.

1896, c. 334.—Amends 1895, c. 438, by including "contractors" under the head of "corporations."

1898, c. 481.—Amends 1895, c. 438, by striking out "having more than twenty-five employees."

1899, c. 247.—Amends 1895, c. 438, §1, by extending it to those "in any of the building trades; in quarries or mines; in public works; in construction or repair of railroads, street railways, roads, bridges, sewers, gas, water, or electric-light works, pipes, or lines."

1900, c. 407.—Amends 1894, c. 508, § 51, by extending it, in as far as it applies to cities of the Commonwealth, to the Commonwealth, its officers, boards and commissions when these employ mechanics, workmen, and laborers.

2. FINES.

1887, c. 361.—Fines for imperfect weaving must be in accordance with printed and posted lists; imposed only when due to "willfulness, incapacity or negligence," and when discovered and shown to the weaver on the first examination of goods. A fine shall not exceed the actual damage. Three days' notice of action for recovery of wages, to be brought within thirty days, must be given the employer.

1891, c. 125.—Repeals 1887, c. 361. No fine shall be imposed for imperfections in weaving. Copies of this act shall be posted in weaving rooms. Penalty for first offence, not more than $100; for further offence, $300,—failure to post the act $25.[2]

[1] Opinion of Justices to the House of Representatives: "We cannot say that a statute requiring manufacturers to pay the wages of their employees weekly is not one which the General Court has the constitutional power to pass, if it deems it expedient so to do." 163 Mass. 589.

[2] St. 1891, c. 125, § 1, is in conflict with the Constitution of this Commonwealth, in forbidding the employer to withhold any part of the contract price from a weaver upon his doing the work improperly, and in requiring the employer to pay the same price for imperfect as for good work,

1892, c. 410.—Repeals 1891, c. 125. § 1. Wages of weavers shall not be lessened by "grading," except for imperfections pointed out to the weaver, and by amounts agreed upon by both parties. § 2. Penalty for first offence, not over $100; for further offence, not over $300.

1894, c. 508, § 55.—Embodies 1892, c. 410.

1894, c. 534.—A printed ticket specifying work required, wages paid, etc., must be supplied with each warp to weavers in cotton mills who are paid by the piece, cut or yard. Similar specifications shall be given to frame tenders, warpers and to operatives paid by the pound. Such specifications must be given to new operatives within seven days of beginning work. Penalty for the first offence, $25 to $50; for subsequent violations, $50 to $100.

1895 c. 144.—Repeals inconsistencies. The occupier or manager of every textile factory shall post in every job-workroom printed or legibly written notices (in sufficient numbers to be accessible to employees) specifying the character of each kind of work and the rate of compensation. Details enumerated. Penalty, upon the occupier or manager who violates: for first offence, $25 to $50; for subsequent violations, $50 to $100.

1898, c. 505.—In any manufacturing or mechanical establishment, no deduction in wages and no overtime work unremunerated at the regular rate shall be allowed in the case of women or minors who were refused leave during a stoppage of machinery. Any person, corporation or officer or agent thereof who violates, shall be fined not more than $20.

VI. ARBITRATION.

1886, c. 263.—§ 1. The governor, with the approval of the council, shall appoint annually three persons competent to act as a State Board of Arbitration—one an employer, one a labor representative and the third selected by these, or the governor.

and particularly with the first article of the Declaration of Rights, which secures to all the right "of acquiring, possessing, and protecting property." (One of five Judges dissenting.)

It *seems* that an indictment (St. 1891, c. 125) is sufficient, which alleges first count, that the defendant on a certain date did "impose and exact a fine, to wit, a fine of forty cents," upon a weaver "for imperfections" in weaving, and in the second count, that he at the same time and place did "withhold a certain part of the wages of such weaver, to wit, the sum of forty cents." Commonwealth *v.* Perry, 155 Mass. 117.

They shall appoint their own officers, of chairman and clerk. § 2. The board shall establish rules of procedure, with the approval of the governor. § 3. Any controversy between employers and workers (not less than twenty-five) "involving questions which may be subject of suit at law or bill in equity," may be submitted to the board. On application (§ 4), by the employer or a majority of the employees, the board shall visit and enquire, hear all persons interested and "advise" parties as to what should be done. The written decision shall be made public and entered in the annual report. § 4. Parties shall promise a three weeks' truce (*i. e.*, no strike or lockout), and if either breaks promise, further action is barred unless the other consents. Public notice of hearings shall be given. § 5. The written decision shall be open for public inspection, recorded and published, at the discretion of the board. § 6. The decision shall be binding for six months or until after sixty days' notice in writing given by either party—postment in three conspicuous places in the shop shall be sufficient notice to employees. § 7. Parties in controversy may agree upon a board of arbitration, which shall have like powers with the state board and advise with and report to it. § 8. Salaries, etc.

1887, c. 269.—Amends 1986 c. 263, § 1, by defining the term of office to be three years—one member to retire annually, and by restating officers: Chairman and *secretary* to be elected by the board, which may also appoint and remove a clerk. § 3. (A. § 4) By requiring the board to satisfy itself an application by a labor representative is duly authorized in writing—names of employees so authorizing to be held secret by the board. By omitting public notice of hearings when so requested by both parties, but reserving the right to the board to give such public notice, at its discretion, at any point of the procedure. By investing the board with power to summon and examine, under oath, any operative or person keeping records of earnings, and to require the production of books recording wages paid. § 4. (A. 7). By substituting as follows: A controversy may be submitted to a local board of arbitration either mutually agreed upon or consisting of one representative from each party and a third chosen by these to be the chairman. This board shall have like powers with the state board and exclusive jurisdiction, receiving such advice from that board as it shall ask. The decision,

which shall be rendered and reported within ten days of the closing of hearings, shall be binding according to the agreement of parties in their written submission. The mayor or selectmen shall notify the state board of an impending strike or lockout. § 5. (A. 8) By substituting as follows: When the board hears of a threatened strike or lockout (involving twenty-five employees) it shall at once open communication with the parties, to effect an amicable settlement or to persuade them to arbitrate. The board may inquire into causes and publish a report assigning responsibility. § 9. Witnesses. § 10. Salaries.

1888, c. 261.—Amends 1887 c. 269, § 1, by striking out the secretary and limiting the salary of the clerk to $1,200 per year.

1890, c. 385.—Amends 1886, c. 263, § 4, as amended by St. 1887, c. 269, § 3. by allowing the assistance of two or more experts, nominated by the parties and appointed by the board, who, under oath of service, shall examine and report upon wages and methods in similar work elsewhere in the Commonwealth.

1892, c. 382.—Amends 1886 c. 263, § 4, by allowing said experts to attend sessions of the board when required, and conference with them before rendering decision. Also by requiring record to be kept of their oath of service. (Salaries of experts.)

VII. CHEAP TRAINS.

1872, c. 348.—Railroads running from Boston shall furnish short-distance local trains, morning and evening, at reduced rates for workmen.

1882, c. 112.—When two hundred or more persons make application, any railroad which runs from Boston shall furnish trains for workmen—to a distance of fifteen miles—about six o'clock, morning and evening, or at hours fixed by the commissioners. Season tickets shall not be more than $3.00 per man, per year.

VIII. LIQUOR LAW.

1882, c. 100.—Notice may be given to a liquor dealer by an employer, forbidding the sale of liquor to a specially designated employee for the term of twelve months. If the employer

suffers injury through the violation of the notice, he may recover $100 to $500 damages through action of tort.

IX. ALIEN LABOR.

1882, c. 86.—Corporations or persons who bring alien laborers into the state shall give $300 bonds as surety that such laborers shall not come upon the relief funds of the Commonwealth within two years.

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